



# Minnesota Department of Health

## Office of Health Facility Complaints Investigative Report PUBLIC

<b>Facility Name:</b> Oaklawn Care & Rehab Center			<b>Report Number:</b> H5517019	<b>Date of Visit:</b> February 2, 2017
<b>Facility Address:</b> 201 Oaklawn Avenue			<b>Time of Visit:</b> 9:00 a.m. to 5:30 p.m.	<b>Date Concluded:</b> December 4, 2017
<b>Facility City:</b> Mankato			<b>Investigator's Name and Title:</b> Pam Hovdet, RN, Special Investigator	
<b>State:</b> Minnesota	<b>ZIP:</b> 56001	<b>County:</b> Blue Earth		

**Nursing Home**

### Allegation(s):

It is alleged that a resident was financially exploited when the alleged perpetrator (AP) used a resident's credit card to make unauthorized purchases.

- Federal Regulations for Long Term Care Facilities (42 CFR Part 483, subpart B)
- State Licensing Rules for Nursing Homes (MN Rules Chapter 4658)
- State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557)
- State Statutes Chapters 144 and 144A

### Conclusion:

Based on a preponderance of evidence, financial exploitation occurred when the alleged perpetrator (AP) took one debit card and one credit card from the resident and used them at four separate businesses for the AP's personal use. The unauthorized charges made by the AP totaled \$343.19.

The resident was admitted to the facility for therapy due to a decline in transfers and self care tasks. The resident was cognitively intact.

The resident kept his/her wallet in the bedside nightstand in the resident's room. After the bank alerted the resident of suspicious activity on the resident's bank account, the resident reported to facility staff a credit card and debit card had been taken from the wallet. The resident recalled using the cards two days earlier. The facility started an investigation and the police were notified.

Police reports indicated the resident's bank statements included unauthorized transactions which occurred at four separate businesses, totaling \$343.19. The police were able to obtain surveillance tapes which showed the transactions from two of the businesses. Facility staff identified the AP in the surveillance tapes. Police reports indicated when the officer asked the AP if the AP took the resident's debit and credit cards

and used them at businesses in town, and the AP nodded yes.

When interviewed by the investigator, the resident stated the AP had been in the resident's room prior to the debit and credit cards being stolen.

Attempts to interview the AP were unsuccessful.

The AP was terminated from employment.

The police department referred the case to the county attorney for charges. The AP was convicted of a gross misdemeanor.

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Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557)

Under the Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557):

- Abuse
- Neglect
- Financial Exploitation
- Substantiated
- Not Substantiated
- Inconclusive based on the following information:

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**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 staff to follow regarding resident possessions. The facility had completed a background check on the AP. The AP had received Vulnerable Adult training by the facility.

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.

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**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.

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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.

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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,

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section 626.557. No state licensing orders were issued.

State Statutes Chapters 144 & 144A – Compliance Not Met - Compliance Not Met  
The requirements under State Statues for Chapters 144 &144A were not met.

State licensing orders were issued:  Yes  No

(State licensing orders will be available on the MDH website.)

**Compliance Notes:**

**Definitions:**

**Minnesota Statutes, section 626.5572, subdivision 9 - Financial exploitation**

"Financial exploitation" means:

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

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

**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
- Nurses Notes
- Assessments
- Physician Orders
- Treatment Sheets
- Physician Progress Notes
- Care Plan Records
- Social Service Notes

- Facility Incident Reports
- Therapy and/or Ancillary Services Records

**Other pertinent medical records:**

- Police Report

**Additional facility records:**

- Resident/Family Council Minutes
- Staff Time Sheets, Schedules, etc.
- Facility Internal Investigation Reports
- Personnel Records/Background Check, etc.
- Facility Policies and Procedures

Number of additional resident(s) reviewed: Five

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: Discharged

**Interviews: The following interviews were conducted during the investigation:**

Interview with reporter(s)  Yes  No  N/A

Specify: \_\_\_\_\_

If unable to contact reporter, 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: Seven

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

**Tennessee Warnings**

Tennessee Warning given as required:  Yes  No

Facility Name: Oaklawn Care & Rehab Center

Report Number: H5517019

Total number of staff interviews: Six

Physician Interviewed:  Yes  No

Nurse Practitioner Interviewed:  Yes  No

Physician Assistant Interviewed:  Yes  No

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

Attempts to contact:

Date:	Time:	Date:	Time:	Date:	Time:
03/29/2017	3:45 p.m.	04/06/2017	10:15 a.m.	04/19/2017	2:30 p.m.

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:**

- Nursing Services
- Call Light
- Dignity/Privacy Issues
- Safety Issues
- Restorative Care
- Facility Tour

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: \_\_\_\_\_

cc:

**Health Regulation Division - Licensing & Certification**

**Minnesota Board of Examiners for Nursing Home Administrators**

**The Office of Ombudsman for Long-Term Care**

**Mankato Police Department**

**Blue Earth County Attorney**

**Mankato City Attorney**

Facility Name: Oaklawn Care & Rehab Center

Report Number: H5517019

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

PRINTED: 09/11/2017  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>245517</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  R-C <b>09/06/2017</b>
NAME OF PROVIDER OR SUPPLIER  <b>OAKLAWN CARE &amp; REHABILITATION CENTER</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>201 OAKLAWN AVENUE MANKATO, MN 56001</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>A Post Certification revisit was conducted on 9/6/17, to follow up on deficiencies issued related to complaint H5517019. Oaklawn Care &amp; Rehabilitation 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 the facility 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:  <b>00038</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>R-C 09/06/2017</b>
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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 licensing order follow-up was completed to follow up on correction orders issued related to complaint H5517019. Oaklawn Care &amp; Rehabilitation Center was found in compliance with state regulations.</p> <p>The facility is enrolled in ePOC and therefore a</p>	{2 000}		
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Minnesota Department of Health  
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Minnesota Department of Health

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NAME OF PROVIDER OR SUPPLIER  <b>OAKLAWN CARE &amp; REHABILITATION CENTER</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>201 OAKLAWN AVENUE</b> <b>MANKATO, MN 56001</b>
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{2 000}	Continued From page 1  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 acknowledge receipt of the electronic documents.	{2 000}		

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

PRINTED: 07/13/2017  
FORM APPROVED  
OMB NO. 0938-0391

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F 000	INITIAL COMMENTS  An abbreviated standard survey was conducted to investigate case #H5517019. Oaklawn Care & Rehab Center is in compliance with 42 CFR Part 483, subpart B, requirements for Long Term Care Facilities. 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.	F 000			

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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 #H5517019. As a result, the following correction order is issued. The facility has agreed to participate in the electronic receipt of State licensure orders consistent with the Minnesota Department of Health Informational Bulletin 14-01, available at</p>	2 000		

Minnesota Department of Health LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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2 000	Continued From page 1  <a href="http://www.health.state.mn.us/divs/fpc/profinfo/infobul.htm">http://www.health.state.mn.us/divs/fpc/profinfo/infobul.htm</a> The State licensing orders are delineated on the attached Minnesota Department of Health orders being submitted electronically. Although no plan of correction is necessary for State Statutes/Rules, please enter the word "corrected" in the box available for text. Then indicate in the electronic State licensure process, under the heading completion date, the date your orders will be corrected prior to electronically submitting to the Minnesota Department of Health.	2 000		
21850	MN St. Statute 144.651 Subd. 14 Patients & Residents of HC Fac.Bill of Rights  Subd. 14. Freedom from maltreatment. Residents shall be free from maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the intentional and non-therapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every resident shall also be free from non-therapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a resident's physician for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.  This MN Requirement is not met as evidenced by: Based on interview and document review, the facility failed to ensure one of six residents reviewed, R1, was free from maltreatment when the resident was financially exploited when a	21850		

Minnesota Department of Health

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21850	<p>Continued From page 2</p> <p>contracted staff member took two credit cards from R1 and used them for their own personal use.</p> <p>Findings include:</p> <p>R1's initial care plan dated 8/16/16, indicated R1 had an activities of daily living (ADL) self care deficit related to osteomyelitis, recent heart pacemaker placement, and generalized weakness. Interventions included occupational therapy (OT) to evaluate, treat and follow OT instructions.</p> <p>R1's OT care plan dated 8/17/16, indicated R1 had a decline in transfers, self care tasks and limited function of the left arm due to recent history of atrial fibrillation and pacemaker placement. R1 required skilled OT six times a week for eight weeks to regain the lost function.</p> <p>R1's OT daily treatment note dated 8/21/16, indicated occupational therapy assistant (OTA)-G provided therapeutic activity and self care training to R1 for 30 minutes. Part of the self care training occurred in R1's room.</p> <p>R1's Brief Interview for Mental Status (BIMS) score dated 8/22/16, indicated R1 was cognitively intact.</p> <p>R1's missing damaged valuables report dated 8/22/16, indicted R1 discovered a credit card and debit cash card were missing and reported it to staff at 8:15 p.m. The report indicated R1 kept the credit and debit cards in his/her wallet in the bedside nightstand, and last saw the two cards on 8/20/16, at 10:30 p.m.</p> <p>A police report dated 8/22/16, indicated R1's bank</p>	21850		

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21850	<p>Continued From page 3</p> <p>account had unauthorized transactions of \$10.87, \$120.00, \$75.14, and \$120.74. The transactions occurred on 8/22/16, at various retail stores.</p> <p>A police report dated 8/31/16, indicated two of the retail stores had surveillance video of the fraudulent transactions conducted on R1's stolen debit card. The police showed the administrator (ADMIN)-A and director of rehab (DOR)-B photographs from the surveillance video, and OTA-G was identified as the suspect in the photographs.</p> <p>A police report dated 9/7/16, indicated OTA-G nodded yes when the police officer asked if she took and used R1's debit card. The collected surveillance evidence showed OTA-G conducted \$251.61 in unauthorized transactions. There was no surveillance evidence of two unauthorized transactions totaling \$91.58, on R1's stolen debit card.</p> <p>An interview with occupational therapist (OT)-C was conducted on 2/2/17, at 2:10 p.m. OT-C stated depending on the resident's functional deficits and interventions, therapy may occur in resident rooms.</p> <p>An interview with DOR-B was conducted on 2/2/17, at 3:10 p.m. DOR-B stated OTA-G was suspended on 8/30/16, after OTA was identified in the police photographs from the surveillance video. DOR-B stated OTA-G was terminated on 9/7/16, after OTA admitted to the police she had taken and used R1's credit and debit cards for her own personal use.</p> <p>An interview with the ADMIN-A was conducted on 2/2/17, at 5:10 p.m. ADMIN-A stated therapy services are contracted through a therapy agency</p>	21850		

Minnesota Department of Health

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21850	<p>Continued From page 4</p> <p>who employs the OTA's that work with the residents.</p> <p>An interview with R1 was conducted on 4/12/17, at 2:30 p.m. R1 stated OTA-G had been in R1's room providing therapy before the cards were stolen.</p> <p>The facility's Abuse Prevention/Vulnerable Adult Plan last revised 12/2016, indicated abuse includes misappropriation of resident property is the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money without the resident's consent.</p> <p>The facility's Outsourcing Therapy Services Agreement dated 8/4/15, indicated the provider will provide specialized therapy services including occupational therapy to the facility residents in accordance with any applicable requirements of federal, state and local laws, rules or regulations.</p> <p><b>SUGGESTED METHOD OF CORRECTION:</b> The administrator or director of nursing (DON) could review facility policies and procedures and outsourcing therapy services agreement and revise as necessary. The administrator or DON could educate staff on the revisions and monitor staff to ensure compliance.</p> <p><b>TIME PERIOD FOR CORRECTION:</b> Twenty-one (21) days.</p>	21850		