



Protecting, Maintaining and Improving the Health of All Minnesotans

Certified Mail # 7016 2070 7235 0334

August 1, 2019

Administrator
Lake Minnetonka Care Center
20395 Summerville Road
Deephaven, MN 55331

RE: Project Number H5606009C

Dear Administrator:

On June 27, 2019, we informed you that we were imposing the following remedy:

- Mandatory Denial of payment for new Medicare and Medicaid admissions effective July 19, 2019. (42 CFR 488.417 (b))

This was based on the deficiencies cited by this Department for a standard survey, completed on April 19, 2019. This survey found the most serious deficiencies to be widespread deficiencies that constituted no actual harm with potential for more than minimal harm that was not immediate jeopardy (Level F) whereby corrections were required.

On July 12, 2019, an abbreviated standard survey was completed at your facility by the Minnesota Department of Health to determine if your facility was in compliance with Federal participation requirements for skilled nursing facilities and/or nursing facilities participating in the Medicare and/or Medicaid programs. The most serious deficiencies in your facility were found to be isolated deficiencies that constituted actual harm that was not immediate jeopardy (Level G) as **past noncompliance**, as evidenced by the attached CMS-2567.

As a result of our survey findings, this Department is recommending that CMS impose a civil money penalty. You will receive a formal notice from the CMS RO only if CMS agrees with our recommendation.

- Civil money penalty. (42 CFR 488.430 through 488.444)

Please note, it is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body.

APPEAL RIGHTS

If you disagree with this action imposed on your facility, you or your legal representative may request a

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hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board (DAB). Procedures governing this process are set out in 42 C.F.R. 498.40, et seq. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at <https://dab.efile.hhs.gov> no later than sixty (60) days after receiving this letter. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically to:

Tamika.Brown@cms.hhs.gov

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted as of October 1, 2014, unless you do not have access to a computer or internet service. In those circumstances you may call the Civil Remedies Division to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than sixty (60) days after receiving this letter, by mailing to the following address:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Director, Civil Remedies Division
330 Independence Avenue, S.W.
Cohen Building – Room G-644
Washington, D.C. 20201
(202) 565-9462

A request for a hearing should identify the specific issues, findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. At an appeal hearing, you may be represented by counsel at your own expense. If you have any questions regarding this matter, please contact Tamika Brown, Principal Program Representative by phone at (312) 353-1502 or by e-mail at Tamika.Brown@cms.hhs.gov.

DEPARTMENT CONTACT

Questions regarding this letter and all documents submitted as a response to the resident care deficiencies (those preceded by a "F" tag), i.e., the plan of correction should be directed to:

Susanne Reuss, Unit Supervisor
Metro C Survey Team
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place, Suite 220
P.O. Box 64900

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Saint Paul, Minnesota 55164-0900

Email: susanne.reuss@state.mn.us

Phone: (651) 201-3793

Fax: (651) 215-9697

INFORMAL DISPUTE RESOLUTION

In accordance with 42 CFR 488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. You are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies, to:

Nursing Home Informal Dispute Process

Minnesota Department of Health

Health Regulation Division

P.O. Box 64900

St. Paul, Minnesota 55164-0900

This request must be sent within the same ten days you have for submitting an ePoC for the cited deficiencies. All requests for an IDR or IIDR of federal deficiencies must be submitted via the web at: http://www.health.state.mn.us/divs/fpc/profinfo/lrc/lrc_idr.cfm

You must notify MDH at this website of your request for an IDR or IIDR within the 10 calendar day period allotted for submitting an acceptable electronic plan of correction. A copy of the Department's informal dispute resolution policies are posted on the MDH Information Bulletin website at: <http://www.health.state.mn.us/divs/fpc/profinfo/infobul.htm>

Please note that the failure to complete the informal dispute resolution process will not delay the dates specified for compliance or the imposition of remedies.

Feel free to contact me if you have questions.

Sincerely,



Douglas Larson, Enforcement Specialist

Minnesota Department of Health

Licensing and Certification Program

Program Assurance Unit

Health Regulation Division

Telephone: 651-201-4118 Fax: 651-215-9697

Email: doug.larson@state.mn.us

cc: Licensing and Certification File

Lake Minnetonka Care Center

August 1, 2019

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

PRINTED: 08/01/2019
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 245606	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 07/12/2019
NAME OF PROVIDER OR SUPPLIER LAKE MINNETONKA CARE CENTER			STREET ADDRESS, CITY, STATE, ZIP CODE 20395 SUMMERVILLE ROAD DEEPHAVEN, MN 55331		
(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	INITIAL COMMENTS On 7/11/19 and 7/12/19, an unannounced abbreviated survey was completed at your facility to conduct a complaint investigation for H5606009C, to determine compliance with 42 CFR Part 483, Requirements for Long Term Care Facilities. The following complaint was found to be substantiated: H5606009C at F600 for past non-compliance. Your 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 for citations at past non-compliance, it is required that you acknowledge receipt of the electronic documents.	F 000			
F 600 SS=G	Free from Abuse and Neglect CFR(s): 483.12(a)(1) §483.12 Freedom from Abuse, Neglect, and Exploitation The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms. §483.12(a) The facility must- §483.12(a)(1) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion; This REQUIREMENT is not met as evidenced by:	F 600			

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.

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F 600	<p>Continued From page 1</p> <p>Based on interview and document review the facility failed to assure that 2 of 2 residents (R1, R2) reviewed for resident to resident altercations were free from abuse. R2 assaulted R1 who sustained harm when he suffered head lacerations that required staples. The facility had implemented corrective action so this deficiency is being cited as harm at Past Non-compliance.</p> <p>Findings include:</p> <p>R1's admission Minimum Data Set (MDS) assessment dated 5/22/19, indicated R1 is 59 years old with a BIMS score of 9 (Brief Interview for Mental Status. Score of 9, indicates moderate cognitive impairment). The MDS indicated R1 exhibited no hallucinations, delusions or behaviors affecting others; and was independent with supervision for activities of daily living (ADLs).</p> <p>R2's annual MDS dated 3/8/19, indicated R2 was a 79 year old with a BIMS of 9 who was experiencing delusions and daily behaviors not directed at others, but had the potential to affect others. R2's MDS further indicated R2 was independent with all ADLS except eating, for which he required supervision. R2 utilized no psychoactive medications according to the MDS.</p> <p>R1's record review revealed no history of previous resident to resident altercations.</p> <p>R2's record review revealed a history of resident to resident altercation when residing at another facility in 2017.</p> <p>Review of the medical record for R2 indicated R2 had Schizoaffective disorder, was not taking</p>	F 600	Past noncompliance: no plan of correction required.		

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F 600	<p>Continued From page 2</p> <p>antipsychotic medications, was refusing medications prescribed to treat Parkinson's, and was refusing his heart medications. In addition, the record indicated R2 exhibited behaviors of refusal of care including refusing showers or changing his clothes, and had been noted to hoard things in his room.</p> <p>An Incident Report dated 7/7/19, indicated Licensed Practical Nurse (LPN)-A had "heard noises upstairs and investigated". The report indicated LPN-A observed R2 with a metal weight bar in one hand and a shower brush in his other hand. LPN-A's report documentation indicated there had been blood observed on the shower brush bristles, and R2 was observed beating on the door trying to get back into his room. According to the report, R1 was holding the door closed so that R2 could not re-enter the room. The report further identified it was unknown how R2 had ended up out of the room, with R1 being able to shut the door and hold it closed. The report indicated 911 had been called immediately and the police and ambulance were called to the facility. R1 was bleeding from injuries to his head, arms, legs, and said he had been beaten in the abdomen. There was blood on R1's bed and on the floor of the room. R1 was transported to a local emergency medical center (HCMC-Hennepin County Medical Center) by ambulance. The Incident Report indicated R1 had sustained a laceration (cut) to the right side of his head that was 2.5 centimeters (cm) long and 8 millimeters (mm) deep and required 7 staples to repair. R1 also sustained a laceration to the left side of his head, closer to the eye socket which was 2 cm long and required 3 staples to close. R1 was discharged back to the facility after a repeat CAT scan was unchanged, with diagnoses</p>	F 600			

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F 600	<p>Continued From page 3 including: contusion of forehead and traumatic head injury with multiple lacerations, and directions to have staples removed in 7-10 days.</p> <p>The medical record progress notes indicated R2 was transported to HCMC psychiatric crisis center by the police department on 7/7/19 for an emergency hold. The notes indicated R2 was agitated and aggressive with diagnosis of Schizoaffective disorder, bipolar type and neurocognitive disorder with behavioral disturbance. The notes indicated R2 had refused antipsychotic medications and had refused medications for his medical conditions of Parkinson's Disease and Heart Failure, he had been refusing to shower and change his clothing for the last 3 months. The progress notes indicated R2 was admitted to the APS (Acute Psychological) unit at HCMC for a 72 hour hold. According to the notes, R2 was quite irritable with nursing staff and stated he would repeat his behaviors at the nursing home. R2 believed the altercation was his roommate's fault and had reported he had only struck R1 with his slipper. However, the notes indicated R2 had evidence of paranoia, was considered a danger to others, and a medical emergency had been declared. R2 was started on antipsychotic medications of Risperdal 0.5 mg twice a day and Zyprexa 2.5 mg IM [intramuscularly] if R2 refused to take the oral medications.</p> <p>On 7/11/19, at 4:26 p.m., R1 was interviewed at the facility regarding the altercation that had occurred with R2. R1 stated R2 had just started beating him with a piece of pipe. R1 denied any continued headaches or any pain from the assault.</p>	F 600			

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F 600	<p>Continued From page 4</p> <p>On 7/12/19, at 2:12 p.m. the DON stated R2 had been seen by Psychiatry on admission in 2018, but because he had not been taking any antipsychotic medications he had not been on the schedule to be seen routinely by Psychiatry.</p> <p>Although the facility failed to ensure R1 was free from abuse by another resident, and R1 sustained head lacerations that required staples in his head, the facility had immediately called 911 for ambulance and police, had notified the State Ombudsman of the hospital transfer, and State agency of the assault by R2. The facility educated residents of the importance of reporting any abuse. On 7/12/19, at 3:00 p.m. the administrator and DON explained that resident to resident altercations in the facility were difficult because of the limited space in the facility and verified staff had received feedback and training regarding the need for close supervision by staff when resident behaviors were escalating. R2 was hospitalized for psychiatric treatment and was not readmitted to the facility but was referred to an a setting that can better meet his needs. The facility's corrective action was verified during the onsite survey on 7/12/19 as having been implemented as of 7/8/19, therefore this deficient practice is being cited at Past Non-compliance.</p>	F 600			



Protecting, Maintaining and Improving the Health of All Minnesotans

August 1, 2019

Administrator
Lake Minnetonka Care Center
20395 Summerville Road
Deephaven, MN 55331

Re: Project Number(s) H5606009C

Dear Administrator:

The above facility survey was completed on July 12, 2019 for the purpose of assessing compliance with Minnesota Department of Health Nursing Home Rules. At the time of the survey, the survey team from the Minnesota Department of Health - Health Regulation Division noted no violations of these rules promulgated under Minnesota Stat. § 144.653 and/or Minnesota Stat. § 144A.10.

Attached is the Minnesota Department of Health order form stating that no violations were noted at the time of this survey. The Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Please disregard the heading of the fourth column which states, "Provider's Plan of Correction." This applies to Federal deficiencies only. There is no requirement to submit a Plan of Correction.

Please note it is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body.

Please feel free to call me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Larson'.

Douglas Larson, Enforcement Specialist
Minnesota Department of Health
Licensing and Certification Program
Program Assurance Unit
Health Regulation Division
Telephone: 651-201-4118 Fax: 651-215-9697
Email: doug.larson@state.mn.us

cc: Licensing and Certification File

Enclosure(s)

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00234	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 07/12/2019
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NAME OF PROVIDER OR SUPPLIER LAKE MINNETONKA CARE CENTER	STREET ADDRESS, CITY, STATE, ZIP CODE 20395 SUMMERVILLE ROAD DEEPHAVEN, MN 55331
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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: On July 11 and 12, 2019, an abbreviated survey was conducted to determine compliance with state licensure. Your facility was found to be in compliance with the MN state licensure.</p> <p>The following complaint was found to be</p>	2 000		
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Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00234	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 07/12/2019
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2 000	Continued From page 1 substantiated at past non-compliance so no orders are issued: H5606009C. The facility is enrolled in ePOC and therefore a signature is not required at the bottom of the first page of state form. Although no plan of correction is required, it is required that the facility acknowledge receipt of the electronic documents.	2 000		