



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

RSI Hartley
707 West Arrowhead Road
Duluth, MN 55811
Saint Louis County

Report #: HG391002

Date: November 24, 2014

Date of Visit: September 8 and 9, 2014
Time of Visit: 10:45 a.m.- 3:30 p.m. and
7:30 a.m.- 11:30 a.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 client was neglected when his/her pain was not properly managed after a dental procedure.

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 neglect is substantiated. The client returned to the facility following oral surgery and staff did not adequately assess, provide pain management or pain monitoring for the client.

The client has diagnoses including moderate intellectual disability. The Risk Management Plan documents the client is able to express his/her needs, but speaks very softly and is difficult to understand.

The client was visited but did not respond to questions regarding the incident.

Staff interviews and documentation review established the client returned to the facility on a Thursday evening following oral surgery to remove ten teeth. The physician ordered scheduled Ibuprofen 600 mg every six hours for 48 hours, and then the Ibuprofen to be given as needed. While taking the scheduled pain medications, the client was eating, drinking, and appeared comfortable. Following the 48 hour period, the pain medication order was written as needed for pain management. The client was assessed for pain and received two doses of Ibuprofen 600 mg over a 48 hour period of time. Staff interviews verified the client became more restless, cried out and called out names of unknown persons. The client declined offers of food and drink. On Monday morning, when staff came on shift, the client was moaning, whimpering, and mumbling, and appeared to be in pain. The client was taken to urgent care for evaluation. The client was assessed by the physician, prescribed Hydrocodone 5/325 mg every six hours, as needed and Ibuprofen every six hours as needed for pain. The client returned to the facility.

For four days following the oral surgery, the physician or the on-call nurse was not notified of the client's increased behaviors, change of condition, or the client refusal of food and fluids. The staff did not administer pain medications based on the behaviors displayed by the client, and did not determine the behaviors or change of condition was the result of pain.

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 is responsible to ensure all staff is trained on pain management, and physician and nurse notification of changes in a client's condition. The client experienced mouth pain, and refused food and fluids for a 48 hour period of time, and staff did not notify the physician or nurse on-call of the change of condition, or provide adequate pain medication administration.

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 ICF/IID (42 CFR, Part 483, subpart I) – Compliance Met

The facility was found to be in compliance with Federal Regulations for ICF/IID (42 CFR, Part 483, subpart I). No deficiencies were issued.

State Licensing Rules for Supervised Living Facility (MN Rules Chapter 4665) – Compliance Met

The facility was found to be in compliance with State Licensing Rules for Supervised Living Facilities (MN Rules Chapter 4665). No state licensing 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 visit, the facility reeducated all staff on pain management, pain medication administration, physician and on-call nurse notification, and shift to shift communication. In addition, training was completed regarding staff understanding of a client's baseline behaviors. 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 17 - Neglect

"Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult.

The Investigation included the following:**Document Review: The following records were reviewed during the investigation:**

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

If unable to contact complainant, attempts were made on:

Date/time: _____ Date/time: _____ Date/time: _____

Interview with family: Yes
 No
 N/A
 Specify: The case manager was notified.

Did you interview the resident(s) identified in allegation: Yes
 No
 N/A
 Specify: The resident was visited but not able to be interviewed due to his/her cognitive status.

Did you interview additional residents: Yes
 No

Total number of resident interviews: Six residents were visited, but unable to be interviewed due to cognitive status.

Interview with staff: Yes
 No
 N/A
 Specify: _____

Tennessee Warning given as required: Yes
 No

Total number of staff interviews: 8

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: No alleged perpetrator was identified in the complaint.

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 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 Ombudsman for Mental Health and Developmental Disabilities
Saint Louis County Medical Examiners
Duluth City Police Department
Saint Louis County Attorney
Duluth City Attorney

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

PRINTED: 12/23/2014
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 24G391	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 10/15/2014
NAME OF PROVIDER OR SUPPLIER RSI HARTLEY			STREET ADDRESS, CITY, STATE, ZIP CODE 707 WEST ARROWHEAD ROAD DULUTH, MN 55811		
(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	
W 000	<p>INITIAL COMMENTS</p> <p>A complaint investigation was conducted to investigate case #HG391002. RSI Hartley is in compliance with 42 CFR Part 483, subpart 1, requirements for Intermediate Care Facilities for Individuals with Intellectual Disabilities.</p>	W 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: 01448	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 10/15/2014
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NAME OF PROVIDER OR SUPPLIER RSI HARTLEY	STREET ADDRESS, CITY, STATE, ZIP CODE 707 WEST ARROWHEAD ROAD DULUTH, MN 55811
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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) COMPLETE DATE
5 000	<p>Initial Comments</p> <p>In accordance with Minnesota Statute, section 144.56 and/or Minnesota Statute, section 144.653, 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 or MN Statute indicated below. When a rule or statute 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. A complaint investigation was conducted to investigate complaint #HG391002. No correction orders are issued.</p>	5 000		

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