



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report  
PUBLIC

Facility:

Kasson MSOCS  
1101 1<sup>st</sup> Avenue Northeast  
Kasson, MN 55944  
Dodge County

Report #: HG485001

Date: July 15, 2013

Date of Visit: April 5, 2013  
Time of Visit: 7:15 a.m.-12:45 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 abuse occurred when the alleged perpetrator's/(AP) actions caused a client's behaviors to escalate resulting in the client being place in a manual hold three times, contrary to the program plan. During one of the holds the AP and the client fell to the ground causing a bruise on the client's hip.

**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:

A preponderance of evidence indicates that abuse occurred when the AP physically restrained a client 3 times within 1 hour. The AP failed to follow the client's behavior plan, which resulted in increased behaviors by the client, which the AP responded to by restraining the client. One of the restraining incidents resulted in a bruise on the client's hip.

Interviews and document review revealed that the client is alert and oriented, and able to express needs. The Behavior Support Plan indicates that the client exhibits aggressive behaviors at times, and the plan directs staff to reinforce the client's positive behaviors. The behavior plan documents that staff should not restrain the client, but focus on "blocking" the physical aggression. The Behavior Support Plan directs only staff that is trained to assist the client with room cleaning should assist with this activity, and remove any items that do not belong to the client. If the client's behaviors escalate, when staff is removing items from the room, the behavior plan directs staff to leave the room until the client is calm and ready to continue cleaning the room.

The client was interviewed and stated that the AP touched things in his/her bedroom, and it's "my room" and "my stuff," and the AP made him/her "mad." The client stated that the AP did not hurt him/her, but the AP should not have been in the bedroom, and should not have taken things from the room.

One staff who witnessed the interaction between the client and the AP, and one staff who investigated the incident were interviewed and stated on the day of the incident, the AP went to the client's bedroom to assist the client clean his/her room. The AP was not trained in the procedure to assist with room cleaning. The client was upset, and didn't want the AP touching items in the room. When the AP removed items from the room, which did not belong to the client, the client began to hit and bite the AP. The client continued to lash out at the AP, and over an hour period of time, the AP restrained the client three separate times, with each restraint incident lasting approximately one to two minutes. One staff stated that the client did sustain a bruise on the right hip, when the client and the AP fell to the floor during one of the restraint procedures. One staff stated that the incident could have been prevented, if the AP had followed the Behavior Support Plan for the client.

The AP was interviewed and stated that s/he was familiar with the client's behavior plan. The AP was aware that only trained staff is to assist the client with room cleaning. The AP stated s/he has a good relationship with

the client, and felt that the client would allow assistance with the room cleaning. Once the AP began to remove items from the room, which did not belong to the client, the client became angry and began to hit and bite the AP. The AP attempted to walk out of the room, the client grabbed the AP, and began to hit and bite the AP. The AP wrapped his/her arms around the client to prevent the client from hitting and biting. The AP stated that the client's behaviors continued on and off for approximately an hour, and the client needed to be restrained on two other occasions during the evening, as the client was throwing items and hitting the AP, with other clients in the area. During one of the restraints, the AP and the client fell to the ground in the hallway of the facility, but the AP was not aware of any injury to the client.

The facility suspended the AP pending the results of the internal investigation. The AP no longer works at the facility.

### **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 was trained on the behavior plan for the client, and was aware of the behavior management program for the client. On the day of the incident, the facility was adequately staffed, and facility policies and procedures were in place.

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):

**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 2 - Abuse**

"Abuse" means

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following

(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult.

(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.

**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

Laboratory and X-ray Reports

Physician Orders

Social Service Notes

Nurses Notes

Meal Intake Records

Activities Reports

Weight Records

Therapy and/or Ancillary Services Records

Assessments

Skin 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

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: 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: 2

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

Tennessee Warning given as required:  Yes  No

Total number of staff interviews: 7

Physician interviewed:  Yes  No

Nurse Practitioner interviewed:  Yes  No

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

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
- Personal Care
- Nursing Services
- Medication Pass
- Dignity/Privacy Issues
- Safety Issues
- Meals
- Restorative Care
- 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 client's bedroom and hallway of the facility.

xc: Division of Compliance Monitoring - Licensing & Certification  
Kasson City Police Department  
Dodge County Attorney  
Kasson City Attorney

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

PRINTED: 07/25/2013  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>24G485</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>05/07/2013</b>
NAME OF PROVIDER OR SUPPLIER  <b>KASSON MSOCS</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>1101 1ST AVENUE NORTHEAST KASSON, MN 55944</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	
W 000	<p><b>INITIAL COMMENTS</b></p> <p>An complaint investigation was conducted to investigate complaint HG485001. Kasson MSOCS is in compliance with 42 CFR Part 483 Subpart 1, Requirements for Intermediate Care Facilities for the Mental Retardation.</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.