



# Minnesota Department of Health

## Office of Health Facility Complaints Investigative Report PUBLIC

<b>Facility Name:</b> Nature's Point Assisted Living			<b>Report Number:</b> HL20550005	<b>Date of Visit:</b> June 21, 2017
<b>Facility Address:</b> 1717 University Drive SE			<b>Time of Visit:</b> 9:30 a.m. to 3:30 p.m.	<b>Date Concluded:</b> August 28, 2017
<b>Facility City:</b> St. Cloud			<b>Investigator's Name and Title:</b> Amy Hyers, RN, Special Investigator Darin Hatch, Special Investigator	
<b>State:</b> Minnesota	<b>ZIP:</b> 56304	<b>County:</b> Sherburne		

Home Care Provider/Assisted Living

### Allegation(s):

It is alleged that a client was financially exploited when a staff/alleged perpetrator (AP) took ten tablets of Vicodin/acetaminophen 10/325 milligrams (mg) for personal use. The AP admitted to taking the medication and resigned.

- State Statutes for Home Care Providers (MN Statutes, section 144A.43 - 144A.483)
- 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 10 tablets of an opioid pain medication from the client during one shift.

The client received services from the provider, which was licensed as a comprehensive home care provider. The client received medication management and had a physician's order for hydrocodone/acetaminophen 10/325 mg (an opioid pain medication).

A discrepancy with a medication count at the facility was discovered after a morning shift change. Staff, including the AP, were called back to work as part of the internal investigation. The AP admitted, to a nurse in writing, that s/he took the client's medication for his/her own personal use.

A police report indicated the AP admitted to taking the ten tablets of hydrocodone/acetaminophen 10/325 mg belonging to the client. Police forwarded the investigation to the city attorney for criminal charges.

Attempts to interview the AP were unsuccessful.

The provider terminated the AP's employment.

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:

**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 home care provider had policies in place to address financial exploitation. The AP's personnel file indicated the AP's acknowledgment of receiving the "Employee Handbook" which indicated any theft was unacceptable in the workplace and was grounds for involuntary termination. The AP's personnel file indicated the AP received training in regards to the policies 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:**

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.

State Statutes for Home Care Providers (MN Statutes section 144A.43 - 144A.483) - Compliance Not Met

The requirements under State Statutes for Home Care Providers (MN Statutes, section 144A.43 - 144A.483) 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
- Care Guide
- Medication Administration Records
- Nurses Notes
- Assessments
- Physician Orders
- Physician Progress Notes
- Care Plan Records
- Facility Incident Reports
- Service Plan

**Other pertinent medical records:**

- Police Report

**Additional facility records:**

- Staff Time Sheets, Schedules, etc.
- Facility Internal Investigation Reports

Facility Name: Nature's Point Assisted Living

Report Number: HL20550005

- Personnel Records/Background Check, etc.
- Facility In-service Records
- Facility Policies and Procedures

Number of additional resident(s) reviewed: None

Were residents selected based on the allegation(s)?  Yes  No  N/A

Specify: No additional records selected

Were resident(s) identified in the allegation(s) present in the facility at the time of the investigation?

Yes  No  N/A

Specify: Client moved to another facility.

**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: One

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

**Tennessee Warnings**

Tennessee Warning given as required:  Yes  No

Total number of staff interviews: Four

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 were unsuccessful

Attempts to contact:

Date:	Time:	Date:	Time:	Date:	Time:
<u>06/26/2017</u>	<u>3:37 p.m.</u>	<u>06/26/2017</u>	<u>3:39 p.m.</u>	<u>07/28/2017</u>	<u>9:54 a.m.</u>

If unable to contact was subpoena issued:  Yes, date subpoena was issued 06/28/2017  No

Facility Name: Nature's Point Assisted Living

Report Number: HL20550005

Were contacts made with any of the following:

Emergency Personnel  Police Officers  Medical Examiner  Other: Specify \_\_\_\_\_

**Observations were conducted related to:**

- Medication Pass
- Cleanliness
- Dignity/Privacy Issues
- Safety Issues
- Meals
- 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 - Home Care & Assisted Living Program**

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

**St. Cloud Police Department**

**Sherburne County Attorney**

**St. Cloud City Attorney**



*Protecting, Maintaining and Improving the Health of All Minnesotans*

December 4, 2017

Ms. Marlene Smith, Administrator  
Nature's Point Assisted Living  
1717 University Drive Se  
Saint Cloud, MN 56304

RE: Complaint Number HL20550005

Dear Ms. Smith:

On November 16, 2017 an investigator of the Minnesota Department of Health, Office of Health Facility Complaints completed a re-inspection of your facility, to determine correction of orders found on the complaint investigation completed on July 19, 2017 with orders received by you on September 8, 2017. At this time, these correction orders were found corrected.

You are encouraged to retain this document for your records. 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 that reads 'Matthew Heffron'.

Matthew Heffron, JD, NREMT  
Health Regulations Division  
Supervisor, Office of Health Facility Complaints  
85 East Seventh Place, Suite 220  
P.O. Box 64970  
St. Paul, MN 55164-0970  
Telephone: (651) 201-4221 Fax: (651) 281-9796

MLH

Enclosure

cc: Home Health Care Assisted Living File  
Sherburne County Adult Protection  
Office of Ombudsman for Long Term Care  
MN Department of Human Services

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>H20550</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>07/19/2017</b>
--	---	---	---

NAME OF PROVIDER OR SUPPLIER  <b>NATURE'S POINT ASSISTED LIVING</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1717 UNIVERSITY DRIVE SE SAINT CLOUD, MN 56304</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) COMPLETE DATE
0 000	<p>Initial Comments</p> <p>*****ATTENTION*****</p> <p>HOME CARE PROVIDER LICENSING CORRECTION ORDER</p> <p>In accordance with Minnesota Statutes, section 144A.43 to 144A.482, this correction order is issued pursuant to a survey.</p> <p>Determination of whether a violation has been corrected requires compliance with all requirements provided at the Statute number indicated below. When Minnesota Statute contains several items, failure to comply with any of the items will be considered lack of compliance.</p> <p>INITIAL COMMENTS:</p> <p>On June 21, 2017, a complaint investigation was initiated to investigate complaint #HL20550005. At the time of the survey, there were 22 clients that were receiving services under the comprehensive license. The following correction order is issued.</p>	0 000	<p>Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota state statutes/rules for Nursing Homes.</p> <p>The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state statute/rule number and the corresponding text of the state statute/rule out of compliance is listed in the "Summary Statement of Deficiencies" column and replaces the "To Comply" portion of the correction order. This column also includes the findings, which are in violation of the state statute after the statement, "This Rule is not met as evidenced by." Following the surveyors findings are the Suggested Method of Correction and the Time Period for Correction.</p> <p>PLEASE DISREGARD THE HEADING OF THE FOURTH COLUMN WHICH STATES, "PROVIDER'S PLAN OF CORRECTION." THIS APPLIES TO FEDERAL DEFICIENCIES ONLY. THIS WILL APPEAR ON EACH PAGE.</p> <p>THERE IS NO REQUIREMENT TO SUBMIT A PLAN OF CORRECTION FOR VIOLATIONS OF MINNESOTA STATE STATUTES/RULES.</p>	
0 325 SS=D	<p>144A.44, Subd. 1(14) Free From Maltreatment</p> <p>Subdivision 1. Statement of rights. A person who receives home care services has these rights:</p>	0 325		

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:  <b>H20550</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>07/19/2017</b>
--	---	---	---

NAME OF PROVIDER OR SUPPLIER  <b>NATURE'S POINT ASSISTED LIVING</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1717 UNIVERSITY DRIVE SE SAINT CLOUD, MN 56304</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) COMPLETE DATE
0 325	<p>Continued From page 1</p> <p>(14) the right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act;</p> <p>This MN Requirement is not met as evidenced by: Based on document review and interview, the licensee failed to ensure that one of one clients (C1) reviewed was free from maltreatment when the client was financially exploited by a staff when she took medications from the client for her own personal use.</p> <p>This resulted in a level two violation (a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death) and is issued at an isolated scope (when one or a limited number of clients are affected or one or a limited number of staff are involved or that a situation has occurred only occasionally.) The findings include:</p> <p>C1's file was reviewed. C1 received comprehensive home care services for medication management from the licensee according to a service plan dated February 21, 2017. C1 had a physician's order for hydrocodone/apap 10/325 milligrams (mg); one tablet every four hours as needed for pain dated February 1, 2017.</p> <p>Document review on June 21, 2017 revealed an untitled document dated April 10, 2017. The document indicated unlicensed personnel (ULP)-E had been called back in to work after staff noticed the narcotic count error. ULP-E admitted to and wrote a statement of admission</p>	0 325		



Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>H20550</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>07/19/2017</b>
--	---	---	---

NAME OF PROVIDER OR SUPPLIER  <b>NATURE'S POINT ASSISTED LIVING</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1717 UNIVERSITY DRIVE SE SAINT CLOUD, MN 56304</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) COMPLETE DATE
0 325	<p>Continued From page 2</p> <p>to taking ten hydrocodone/apap 10/325 mg tablets from C1 on the night shift of April 9, 2017 into April 10, 2017, and then wrote a resignation statement.</p> <p>Interview with licensed practical nurse (LPN)-C on June 21, 2017 at 2:21 p.m. revealed staff reported to her the narcotic count for C1 was incorrect the morning of April 10, 2017. LPN-C did a re-count to verify medications were missing. The internal investigation was then turned over to the director of nursing, registered nurse (RN)-D and police.</p> <p>Interview with RN-D on June 26, 2017 at 1:26 p.m. revealed she conducted an internal investigation with the staff on the morning of April 10, 2017 after receiving a report that narcotics were missing. She stated she had a 45 minute conversation with ULP-E who admitted to taking the medication from C1 for her own personal use. ULP-E agreed to resign her employment.</p> <p>Document review revealed a police report dated April 11, 2017 which indicated police obtained a verbal statement from ULP-E who admitted she took the ten hydrocodone/apap 10/325 mg tablets from C1. Police forwarded their investigative findings to the county attorney for formal charging for felony theft.</p> <p>TIME PERIOD FOR CORRECTION: Twenty-one (21) days</p>	0 325		