



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Birchwood Arbors
750 Northeast First Street
Forest Lake, MN 55025
Washington County

Report #: HL21920004

Date: October 13, 2014

Date of Visit: September 8, 2014 & September 17, 2014 By: Darin Hatch, Special Investigator
Time of Visit: 9:00 a. m. – 1:30 p. m. & 8:30 a. m. – 3:30 p. m.

- Type of Facility:** Nursing Home HHA Home Care Provider/Assisted Living
- SLF ICF/IID Home Care
- Hospital Other: _____

- Facility Self Report Complaint

Allegation(s): It is alleged that a client was financially exploited when a staff took the client's Fentanyl patch for her/his own use. Medications were also missing from two other clients.

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 upon a preponderance of the evidence, financial exploitation did occur when the AP took a fentanyl transdermal patch from a client while employed at the facility and used it for personal benefit.

Client 1 received services for medication administration. S/he had a physician's order for a 50 mcg fentanyl transdermal patch to be administered every 72 hours. During interview, the client refused to discuss the incident but did say the patches are scheduled and are not PRN. Client 1 was missing 1-50 mcg fentanyl transdermal patch.

The facility discovered missing medications from two other clients, conducted an investigation, and notified the police. The facility and police interviewed staff but were unable to identify an alleged perpetrator.

Approximately one week later, the facility discovered a missing fentanyl transdermal patch from client 1. The facility conducted an investigation, notified the police, and identified the AP as the possible alleged perpetrator.

The police went to the address of the AP to interview the AP. The police officer noticed the AP wearing what appeared to be a fentanyl transdermal patch on the AP's left upper arm. The AP denied the allegation but eventually admitted to taking the fentanyl transdermal patch from client 1 when the officer positively identified the patch on the AP's arm as a fentanyl transdermal patch. The officer arrested the AP and completed a prosecution referral form requesting charges for possession of a controlled substance-5th degree.

Interviews of facility staff revealed the previous investigation for missing medications from clients 2 and 3. Staff reported the AP took a fentanyl transdermal patch belonging to client 1.

Attempts to contact the AP were unsuccessful.

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 adequate policies in place to govern financial exploitation. The AP's personnel file adequately showed the AP's acknowledgement 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 showed the AP received adequate 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 Licensing Rules for Home Care (MN Rules Chapter 4668) – Compliance Met**

The facility was found to be in compliance with State Licensing Rules for Home Care (MN Rules Chapter 4668). 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 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;

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: 0

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

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: Facility report

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: 3

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 9

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: Failed to contact me

Attempts to contact: Date/time: 9-29-14/10:38 a. m. via phone Date/time: 9-29-14/10:42 a. m. via e-mail
Date/time: 9-30-14/10:34 a. m. via phone

If unable to contact was subpoena issued: Yes , date subpoena was issued 10-1-14 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: Medication Controls

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: Medication Storage

xc: Division of Compliance Monitoring - Licensing & Certification
Forest Lake City Police Department
Washington County Attorney
Forest Lake City Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H21920	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 09/18/2014
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NAME OF PROVIDER OR SUPPLIER BIRCHWOOD ARBORS	STREET ADDRESS, CITY, STATE, ZIP CODE 750 NORTHEAST FIRST STREET FOREST LAKE, MN 55025
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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
0 000	<p>Initial comments</p> <p>A complaint investigation was conducted to investigate case #HL21920004. No correction orders are issued.</p>	0 000		

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