



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Benedictine Living Community of Winsted
300 Fairlawn Avenue West
Winsted, MN 55395
McLeod County

Report #: HL24030001

Date: October 2, 2014

Date of Visit: June 6, 2014

By: Carrie Euerle, R.N., Special Investigator

Time of Visit: 10:00 a.m. – 3:00 p.m.

- 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 exploited when a staff, alleged perpetrator (AP), took the client's narcotic medication for his/her own use.

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, the allegation of financial exploitation is substantiated. The alleged perpetrator (AP) admitted to taking two of the client's narcotic tablets for his/her own use.

The client's service plan included medication administration. The client had physician orders for two tablets of Lortab (Hydrocodone 5mg/ Acetaminophen 500mg) to be administered every night and one to two tablets as needed up to three times per day.

During a routine count of narcotic medications at the facility, it was discovered that the resident had two tablets in his/ her Lortab bottle that did not match the other tablets in the bottle. Facility administration was informed and began an investigation. Administrative staff identified the AP as the last person to sign out the client's medication and contacted the police department.

Review of the client's medication administration record revealed that the AP had signed for the administration of the client's medication the evening prior to when the missing Lortab tablets were discovered.

Review of the narcotic log on that same evening revealed that the AP had signed out two Lortab tablets and documented that the client had "run over [the medication] with scooter" and that the tablets were destroyed. The AP then signed out an additional two tablets of Lortab to administer to the client.

Interview with the client revealed that s/he did not recall a time where s/he had ever dropped pain medication on the floor and ran it over with the scooter.

The AP declined to be interviewed.

A police report revealed that the AP admitted to taking two of the client's Lortab tablets. The AP denied replacing the client's Lortab with another medication. The AP was charged with felony theft.

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 had policy and procedures in place to ensure medication security and had adequately trained the AP on these policies. The AP did not adhere to facility policy and procedure.

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 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
- 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: _____

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: 2

Interview with staff: Yes No N/A Specify: 1

Tennessee Warning given as required: Yes No

Total number of staff interviews: 4

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: Declined interview

Attempts to contact: Date/time: 6/24/2014 @ 10:36 A.M. 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
- Nursing Services
- Infection Control
- Use of Equipment
- Call Light
- Dignity/Privacy Issues
- Safety Issues
- Cleanliness
- Transfers
- Other: _____
- Restorative Care
- Facility Tour
- Injury
- Incontinence

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
 Winsted Police Department
 McLeod County Attorney
 Winsted City Attorney

Minnesota Department of Health

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| STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION | (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H24030 | (X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____ | (X3) DATE SURVEY COMPLETED C 06/06/2014 |
|--|---|---|---|

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| NAME OF PROVIDER OR SUPPLIER BENEDICTINE LIVING COMMUNITY OF WINST | STREET ADDRESS, CITY, STATE, ZIP CODE 215 LINDEN AVENUE WEST WINSTED, MN 55395 |
|--|--|

| (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 | Initial comments A complaint investigation was conducted to investigate case #HL24030001. No correction orders are issued. | 0 000 | | |

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