



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report  
PUBLIC

**Facility:**

St John Home Care LLC  
1502 Archwood Road  
Minnetonka, MN 55305  
Hennepin County

Report #: HL27697001

Date: January 22, 2013

Revised: April 29, 2013

Stella French, Director

Date of Visit: December 14, 2012

Time of Visit: 8:00 a.m.

By: Deborah Neuberger, 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):** The allegation is neglect based on the following: A client had his foot amputated when he developed a severe infection after not being adequately assessed and treated for a wound caused by a piece of metal in his foot.

**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 neglect is ~~inconclusive due to conflicting evidence provided~~ substantiated. ~~Although the complaint indicated facility staff did not adequately assess the client's foot and the client was complaining of such severe foot pain he could hardly walk, documentation and interview revealed that the client saw a medical provider who looked at the foot 7 days before he was hospitalized for foot pain when he showed no signs of infection. The client showed no new symptoms of infection until the day he was sent to the emergency room.~~ Additional information was provided by the complainant during the request for reconsideration that supported the facility's failure to appropriately treat the client's diabetes and failure to follow up on a lab report that was not received by the physician's group including a significant change in the client's white blood cell (WBC) count which should have been taken into consideration by the physician as a possible symptom of infection. The facility provided written blood sugar readings that varied significantly from the client's blood sugar monitor readings and there was no documentation that the physician had been notified for blood sugar readings over 300.

Facility interview and documentation review revealed the client was cognitively impaired and required stand by assistance with activities of daily living. The client complained of foot pain and a medical provider looked at the foot at the facility. Interviews revealed the medical provider indicated the area on the foot was a callous. Documentation revealed in the week that followed the client was assessed by the nurse 3 times and his vital signs were taken each day. The vital sign sheet was reviewed and revealed that the client's vital signs remained within his normal limits on each day. The nursing notes and interview revealed that the client's foot was assessed the day prior to hospital admission due to pain and no redness or ulceration was noted and his vital signs remained within normal limits. On the day of hospital admission the client's foot was assessed due to increased pain and difficulty walking and found to be red with bleeding noted. His vital signs remained within normal limits that day as well. The client was taken to the emergency room for treatment.

Family interview revealed a family member saw the client when the medical provider assessed the foot and described the foot as having a black area on the heel. A family member stated they saw the client 3 days before hospital admission and stated he was in such pain he could hardly walk.

The client's physician was interviewed and stated that the client was seen by the nurse practitioner 7 days prior to the hospital admission. During that visit the client's foot was assessed and thought to have a callous. The

client exhibited no signs of infection, and the Nurse Practitioner did not want to cut into the callous for fear of infection due to the client's diabetes and renal failure.

The emergency room record was reviewed and revealed the client came to the emergency department with a 2 cm wound to his right heel. The patient was diagnosed with pneumonia, diabetic foot ulcer, cellulitis, weakness and foreign body in his foot. The patient was not diagnosed with sepsis at the time of admission to the hospital. A foreign body was removed from the patient's heel in the emergency room. The patient was started on broad spectrum antibiotics. The patient's foot exam clinically worsened while in the emergency department. The client died 9 days later.

The Medical Examiner report was reviewed and revealed that client died of multisystem organ failure due to infectious complications of a foreign body in the right foot.

**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 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 Not Met**

The requirements under State Licensing Rules for Home Care (MN Rules Chapter 4668) were not met.

State licensing orders were issued:  Yes  No If no, specify: \_\_\_\_\_

(State licensing orders will be available on the MDH website.)

**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.

**Facility Corrective Action:**

The facility took the following corrective action(s):

**Definitions:****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; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

**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: Resident was deceased.

**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: \_\_\_\_\_

Did you interview the resident(s) identified in allegation:  Yes  No  N/A Specify: Resident was deceased.

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: 5

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

Medication Pass

Meals

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Personal Care     | <input checked="" type="checkbox"/> Dignity/Privacy Issues | <input type="checkbox"/> Restorative Care         |
| <input checked="" type="checkbox"/> Nursing Services  | <input checked="" type="checkbox"/> Safety Issues          | <input checked="" type="checkbox"/> Facility Tour |
| <input checked="" type="checkbox"/> Infection Control | <input checked="" type="checkbox"/> Cleanliness            | <input type="checkbox"/> Injury                   |
| <input type="checkbox"/> Use of Equipment             | <input type="checkbox"/> Transfers                         | <input type="checkbox"/> Incontinence             |
| <input type="checkbox"/> Call Light                   | <input type="checkbox"/> 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 Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>H27697</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>12/26/2012</b>
NAME OF PROVIDER OR SUPPLIER  <b>ST JOHN HOME CARE LLC</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>1502 ARCHWOOD ROAD MINNETONKA, MN 55305</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	Initial comments  A complaint investigation was conducted on 12/14/12 to investigate case #HL27697001. The following correction order is issued.  When corrections are completed please sign and date, make a copy of the form for your records and return the original to the MN Department of Health, Division of Compliance Monitoring, Office of Health Facility Complaints; 85 East Seventh Place, Suite 220, P.O. Box 64970, St. Paul, Minnesota 55164-0970.	0 000		
06170	4668.0825 Subp. 5 Information to determine delegation  Subp. 5. Information to determine delegation. The licensee must establish and implement policies to communicate up-to-date information to the registered nurse regarding the current available unlicensed personnel and their training and qualifications, so the registered nurse has sufficient information to determine the appropriateness of delegating tasks in individual situations.  This MN Requirement is not met as evidenced by: Based on interview and document review the facility failed to establish and implement policies regarding the current available unlicensed personnel and their training and qualifications to perform delegated nursing tasks for 1 of 2 clients, C2, reviewed who was receiving delegated nursing tasks by unlicensed personnel.  Findings include:	06170		

Minnesota Department of Health

TITLE

(X6) DATE

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>H27697</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>12/26/2012</b>
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06170	<p>Continued From page 1</p> <p>C2 was admitted to the facility in 2011 with tube feedings. C2's service plan dated 4/19/11 was reviewed and revealed unlicensed staff were to perform tube feeding administration, flush and residual check. Physician orders dated 12/12 were reviewed and revealed tube feeding residual was to be checked and the tube feeding and/or bolus tube feeding was to be held if more than 100 cc of residual was noted.</p> <p>During observations on 12/14/12 at 8:55 a.m. home health aide (HHA)-B was interviewed. HHA-B was working the day shift in the home and responsible for the 8 a.m. and 1 p.m. bolus feeding. When asked how she checks residual on C2 prior to the feedings, HHA-B did not know how to check for residual.</p> <p>Registered Nurse (RN)-A was interviewed on 12/14/12 at 10:30 a.m. and stated she did not have a written procedure for checking residual for C2, nor did she have documentation of competency of unlicensed staff who perform that delegated task. RN-A stated she trained the staff to perform delegated nursing tasks, but did not document the training. RN (A) further stated she did not have written instructions to perform a check of residual before initiating tube feeding.</p> <p>The policy Delegation of Nursing Services dated 12/1/10 and provided by the facility was reviewed and revealed Under section 2. A registered nurse may delegate nursing services to unlicensed staff only after: c) determining the unlicensed person is trained and competent and has been instructed in the proper methods to perform the procedures with respect to the specific client; and d) including written instructions for performing the procedure for the client in the client's record.</p>	06170		



*Protecting, Maintaining and Improving the Health of Minnesotans*

Post Correction Order Follow-Up  
PUBLIC DATA

Facility:

St John Home Care LLC  
1502 Archwood Road  
Minnetonka, MN 55305  
Hennepin County

Report #: HL27697001

Date: May 1, 2013

Date of Visit: May 1, 2013  
Time of Visit: 7:00 a.m.

By: Deb Vangsness, R.N.  
Special Investigator

Nature of Visit

An unannounced visit was made in order to follow-up one state licensing order which were issued on December 28, 2012, as the result of an investigation which had been completed on December 26, 2012.

The status of the order is as follow:  
1 4668.0825 Subp. 5 - Corrected

xc: Minnesota Department of Health – Licensing and Certification

**State Form: Revisit Report**

<b>(Y1) Provider / Supplier / CLIA / Identification Number</b> H27697	<b>(Y2) Multiple Construction</b> A. Building B. Wing	<b>(Y3) Date of Revisit</b> 5/1/2013
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<b>Name of Facility</b> ST JOHN HOME CARE LLC	<b>Street Address, City, State, Zip Code</b> 1502 ARCHWOOD ROAD MINNETONKA, MN 55305
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This report is completed by a State surveyor to show those deficiencies previously reported that have been corrected and the date such corrective action was accomplished. Each deficiency should be fully identified using either the regulation or LSC provision number and the identification prefix code previously shown on the State Survey Report (prefix codes shown to the left of each requirement on the survey report form).

(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date
ID Prefix <u>06170</u> Reg. # <u>4668.0825 Subp. 5</u> LSC _____	Correction Completed 05/01/2013	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed

Reviewed By _____	Reviewed By KL/sd	Date: 05/01/13	Signature of Surveyor: 05455	Date: 05/01/13
Reviewed By _____	Reviewed By	Date:	Signature of Surveyor:	Date:
CMS RO				

Followup to Survey Completed on: 12/26/2012	Check for any Uncorrected Deficiencies. Was a Summary of Uncorrected Deficiencies (CMS-2567) Sent to the Facility? <table style="float: right; margin-left: 20px;"> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO
YES	NO		