



Office of Health Facility Complaints Investigative Report  
PUBLIC

<b>Facility Name:</b> BrightStar of St. Croix Valley			<b>Report Number:</b> HL27924002	<b>Date of Visit:</b> September 8, 2017
<b>Facility Address:</b> 8951 33rd Street North, HWY 5			<b>Time of Visit:</b> 8:30 a.m. to 1:30 p.m.	<b>Date Concluded:</b> September 25, 2017
<b>Facility City:</b> Lake Elmo			<b>Investigator's Name and Title:</b> Earl Bakke, RN Special Investigator	
<b>State:</b> Minnesota	<b>ZIP:</b> 55042	<b>County:</b> Washington		

☒ Home Care Provider/Assisted Living

**Allegation(s):**

It is alleged that a client was financially exploited by a staff, alleged perpetrator (AP) using the client's credit cards for his/her own use.

- ☒ 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 the preponderance of evidence, financial exploitation is substantiated. A staff member stole the client's debit/credit card and made several unauthorized purchases totaling \$451.90.

The client received services from the comprehensive home care provider for different delegated tasks to unlicensed personnel, hands-on assistance with transfers and mobility, and providing standby assistance for safety. A family member discovered several unauthorized charges on the client's debit/credit card statement.

The family member notified a law enforcement agency to begin an investigation. The law enforcement agency contacted each of the stores of the unauthorized charges and obtained a photograph of the person who used the client's debit/credit card. A law enforcement officer contacted the licensee and showed the picture to facility management. Facility management told the law enforcement officer the person in the picture was the alleged perpetrator (AP) who cared for the client.

The AP was interviewed by the law enforcement officer and s/he admitted to being in the stores on the dates and times of the charges but stated s/he did not steal or use the debit/credit cards. One of the stores from the unauthorized purchases told the law enforcement officer that the AP had received reward points

to his/her account when the purchases were made. A document from the store which provided a picture of the AP, provided account information with the AP's name, email address, and phone number. The same document showed that the AP received reward points for the purchases made using the client's debit/credit card.

The AP was terminated as a result of the allegations. During an interview with the family member, s/he stated the client's debit/credit card was not missing, but that the AP in question provided services for the client the day before, and the day after the card was used. The family member stated no services were contracted that would have required the AP to take or use the client's debit/credit card. The family member stated no one was authorized to use the client's debit/credit cards. A second debit/credit card, was never found.

The AP did not provide services to the client after the date the debit/credit card was used. During an interview with facility management, s/he stated s/he was present for the interview between the law enforcement officer and the AP. Facility management stated that the AP's demeanor was very different and that the answers from the law enforcement's questions seemed cold and rehearsed. A law enforcement report indicates two different credit/debit cards were used on two different dates. The report also indicates that the AP never took the client anywhere. That investigation is continuing.

The AP declined to be interviewed.

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Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557)

Under the Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557):

<input type="checkbox"/> Abuse	<input type="checkbox"/> Neglect	<input checked="" type="checkbox"/> Financial Exploitation
<input checked="" type="checkbox"/> Substantiated	<input type="checkbox"/> Not Substantiated	<input type="checkbox"/> Inconclusive based on the following information:

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**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 alleged perpetrator was issued an employee handbook that indicates employees are expected to use good judgment and common sense in seeking to comply with all applicable laws, rules and regulations and to ask for advice when you are uncertain about them. The facility completed a background check that returned no information on this type of incidents with the AP. The AP was also issued a facility policy that indicated clients have the right to be free from financial exploitation including but not limited to the misappropriation of a client's property.

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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 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.)

State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) - Compliance Not Met  
The requirements under State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) were not met.

State licensing orders were issued: ☒ Yes ☐ No

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

State Statutes Chapters 144 & 144A – Compliance Not Met - Compliance Not Met  
The requirements under State Statutes for Chapters 144 & 144A 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.

Facility Name: BrightStar of St. Croix Valley

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**The Investigation included the following:**

**Document Review:** The following records were reviewed during the investigation:

- ☒ Medical Records
- ☒ Care Guide
- ☒ Assessments
- ☒ Physician Orders
- ☐ 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
- ☒ 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: \_\_\_\_\_

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 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: \_\_\_\_\_

Facility Name: BrightStar of St. Croix Valley

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Did you interview the resident(s) identified in allegation:

☐ Yes ☒ No ☐ N/A Specify: Deceased

Did you interview additional residents? ☐ Yes ☒ No

Total number of resident interviews: \_\_\_\_\_

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

### Tennesen Warnings

Tennesen Warning given as required: ☒ Yes ☐ No

Total number of staff interviews: Two

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 to contact:

Date:	Time:	Date:	Time:	Date:	Time:
<u>09/08/2017</u>	<u>2:30 p.m.</u>	<u>09/21/2017</u>	<u>11:15 a.m.</u>	<u>09/25/2017</u>	<u>11:58 a.m.</u>

If unable to contact was subpoena issued: ☒ Yes, date subpoena was issued 09/21/2017 ☐ No

Were contacts made with any of the following:

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

### Observations were conducted related to:

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**

**Lake Elmo Police Department**

**Lake Elmo City Attorney**

**Washington County Sheriff's Office**

**Washington County Attorney's Office**

Facility Name: BrightStar of St. Croix Valley

Report Number: HL27924002

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>H27924</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING: _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>09/22/2017</b>
NAME OF PROVIDER OR SUPPLIER  <b>BRIGHTSTAR OF ST CROIX VALLEY</b>		STREET ADDRESS, CITY, STATE, ZIP CODE <b>8951 33RD ST N</b> <b>LAKE ELMO, MN 55042</b>		
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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(s) has been 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 September 8, 2017, a complaint investigation was initiated to investigate complaint #HL27924002 . At the time of the survey, there were 27 clients that were receiving services under the comprehensive license. The following correction orders are 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 for Home Care Providers. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state Statute number and the corresponding text of the state Statute out of compliance is listed in the "Summary Statement of Deficiencies" column. This column also includes the findings which are in violation of the state requirement after the statement, "This Minnesota requirement is not met as evidenced by." Following the surveyors ' findings is 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.</p> <p>The letter in the left column is used for tracking purposes and reflects the scope and level issued pursuant to 1441.474 subd. 11 (b) (1) (2)</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

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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 a client was free from maltreatment for one of one client, (C1), reviewed when a staff member stole the client's credit cards and made numerous unauthorized purchases.</p> <p>The violation occurred as a level 2 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 very limited number of residents are affected and/or one of a very limited number of staff are involved, and/or the situation has occurred only occasionally or in a very limited number of locations).</p> <p>The findings include:</p> <p>A facility policy, dated March, 2015, indicated clients have the right to be free from abuse, neglect, and financial exploitation including but not limited to misappropriation of resident property, corporal punishment, and involuntary seclusion.</p> <p>C1's medical record was reviewed. C1 received services from the comprehensive home care provider for delegated tasks to unlicensed personnel, hands-on assistance with transfers</p>	0 325			



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0 325	<p>Continued From page 2</p> <p>and mobility, and assistance with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing.</p> <p>A law enforcement report dated October 17, 2016 indicated a family member (F)-B filed a report that C1's had unauthorized charges on her debit/credit card statement. C1's debit/credit card was used on September 27, 2016 at two different stores and a debit/credit card was used on October 11, 2016 at four different stores. The total of the unauthorized charges was \$451.90. The law enforcement officer (LEO) obtained a picture of the person who used one of the cards and showed it to the licensee owner (OWN)-A who identified NA-D as an employee who cared for C1.</p> <p>Store transaction detail from one of the stores where C1's debit/credit card was used, dated September 22, 2017 indicates NA-D received reward points for the purchases made using C1's debit/credit card on September 27, 2016. This same document also indicates a specific account number assigned to NA-D and C1's name as the cardholder for the debit/credit card used to make the purchases.</p> <p>Profile information from one of the stores where C1's debit/credit card was used, undated, indicated the same account number from above and listed NA-D's name, email address, and phone. The name and phone number matched information written on NA-D's employment application.</p> <p>During an interview with F-B on September 22, 2017 at 11:24 am, F-B said that he discovered the unauthorized charges on C1's debit/credit card statements. F-B contacted law enforcement</p>	0 325		

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0 325	Continued From page 3  and a LEO began to investigate the charges. F-B said only two staff members from the licensee provided services to C1, one of which was NA-D.  During an interview with OWN-A on September 8, 2017 at 12:40 p.m. OWN-A said the LEO had come to the licensee's office and notified OWN-A of the fraud investigation. The LEO showed OWN-A a picture and OWN-A identified the person as NA-D. NA-D employment was terminated as a result of the fraud allegations.  TIME PERIOD FOR CORRECTION: Twenty-One (21) Days	0 325		
0 880 SS=D	144A.4791, Subd. 11 Client Complaint and Investigative Process  Subd. 11. Client complaint and investigative process. (a) The home care provider must have a written policy and system for receiving, investigating, reporting, and attempting to resolve complaints from its clients or clients' representatives. The policy should clearly identify the process by which clients may file a complaint or concern about home care services and an explicit statement that the home care provider will not discriminate or retaliate against a client for expressing concerns or complaints. A home care provider must have a process in place to conduct investigations of complaints made by the client or the client's representative about the services in the client's plan that are or are not being provided or other items covered in the client's home care bill of rights. This complaint system must provide	0 880		

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0 880	<p>Continued From page 4</p> <p>reasonable accommodations for any special needs of the client or client's representative if requested.</p> <p>(b) The home care provider must document the complaint, name of the client, investigation, and resolution of each complaint filed. The home care provider must maintain a record of all activities regarding complaints received, including the date the complaint was received, and the home care provider's investigation and resolution of the complaint. This complaint record must be kept for each event for at least two years after the date of entry and must be available to the commissioner for review.</p> <p>(c) The required complaint system must provide for written notice to each client or client's representative that includes:</p> <p>(1) the client's right to complain to the home care provider about the services received;</p> <p>(2) the name or title of the person or persons with the home care provider to contact with complaints;</p> <p>(3) the method of submitting a complaint to the home care provider; and</p> <p>(4) a statement that the provider is prohibited against retaliation according to paragraph (d).</p> <p>(d) A home care provider must not take any action that negatively affects a client in retaliation for a complaint made or a concern expressed by the client or the client's representative.</p> <p>This MN Requirement is not met as evidenced by: Based on interview and document review, the</p>	0 880			

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0 880	<p>Continued From page 5</p> <p>licensee failed to perform an internal investigation on a maltreatment complaint when one of one clients (C1) reviewed had credit cards stolen and used for unauthorized purchases.</p> <p>The violation occurred as a level 2 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 very limited number of residents are affected and/or one of a very limited number of staff are involved, and/or the situation has occurred only occasionally or in a very limited number of locations).</p> <p>The findings include:</p> <p>During a document review of incident forms on September 8, 2017 at 10:00 a.m., no incident form or documentation could be located regarding C1's maltreatment complaint.</p> <p>During an interview with the licensee owner (OWN)-A on September 8, 2017 at 12:40 p.m., OWN-A said no specific internal investigation had been completed. OWN said the main office had been notified, the common entry point report had been made and the law enforcement agency was investigating the complaint and the licensee did not do their own internal investigation.</p> <p>A facility policy and procedure titled incident report policy, dated March 2015, indicated the BrightStar Care Office will be immediately notified. Types of incidents may include but are not limited to the following: property damage, traffic violation, inappropriate behavior, injury, theft, or vandalism. The incident form should be</p>	0 880			

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0 880	Continued From page 6  filled out as completely as possible, including any action taken as a result of the accident or incident.  TIME PERIOD FOR CORRECTION: Twenty-One days (21)	0 880			



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

January 26, 2018

Ms. Lori Harrington, Administrator  
Brightstar Of St Croix Valley  
8951 33rd St N  
Lake Elmo, MN 55042

Re: Project Number HL20050012

Dear Ms. Harrington:

On September 22, 2017, an investigation was completed at your facility by the Minnesota Department of Health, Office of Health Facility Complaints, to determine if your facility was in compliance with state regulations. The investigator found violations.

The state licensing order was sent to you previously. The investigative report is now completed and a copy is enclosed.

If you have questions related to this investigation, please contact the investigator identified in the report.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads 'Lindsey L. Krueger'.

Lindsey Krueger, Interim Assistant Director  
Health Regulation Division  
Office of Health Facility Complaints  
P.O. Box 64970  
St. Paul, MN 55164-0970  
Telephone: (651) 201-4135 Fax: (651) 281-9796  
General Information: (651) 201-4201 - 1-800-369-7994

Enclosure

LK/tn