



Office of Health Facility Complaints Investigative Report
PUBLIC

Facility Name: Waverly Gardens		Report Number: HL28191003	Date of Visit: November 17, 2017
Facility Address: 5919 Centerville Road		Time of Visit: 8:00 am to 2:30 pm	Date Concluded: March 12, 2018
Facility City: North Oaks		Investigator's Name and Title: Earl F Bakke, RN, Special Investigator	
State: Minnesota	ZIP: 55127	County: Ramsey	

Home Care Provider/Assisted Living

Allegation(s):

It is alleged that a client was financially exploited when an alleged perpetrator took a large diamond ring and diamond tennis bracelet.

- 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, the allegation of financial exploitation is substantiated. The alleged perpetrator stole jewelry from several clients and sold the jewelry at a pawnshop for cash. The estimated value of known stolen jewelry is \$18,000.

Client #1 received services from the comprehensive home care provider for medication management, oxygen management, and extensive assistance 24 hours a day.

Client #2 received services from the comprehensive home care provider for medication management and assistance with daily living activities.

Family members of client #1 reported several pieces of jewelry missing to law enforcement. The total value of the missing pieces was \$10,000.00. Law enforcement conducted an investigation and discovered some of the missing jewelry had been sold at a pawn shop. The person who sold the jewelry was identified as a staff member at the facility. The staff member, (alleged perpetrator) (AP), was contacted by law enforcement and an interview took place. The AP admitted to stealing the jewelry and selling it at the pawnshop. Law enforcement arrested the AP and charged the AP with possession of stolen property. The AP plead guilty to the charges. During law enforcement's investigation, a search warrant had been executed at the AP's home.

A significant amount of jewelry was recovered.

This office obtained photographs of all the jewelry recovered. During the on-site investigation, it was identified that the AP worked on a specific unit in the facility for most of his/her shifts. Because the AP worked primarily on a unit with clients who had cognitive challenges, this office sent a letter to family members of existing clients and family members of clients (approximately 40 clients) who had been on that unit in the last six months. Six (6) of those family members contacted this office with concerns about missing jewelry.

A family member for client #2 did an inventory of his/her jewelry and found several pieces missing. The family member for client #2 contacted this office and viewed the pictures of recovered jewelry. Client #2's family member tentatively identified two pieces as belonging to client #2. The family member was then referred to law enforcement for follow up. Law enforcement was able to confirm that two pieces of jewelry did, in fact, belong to client #2 with an estimated value of \$8,000.00. Law enforcement filed felony possession of stolen property charges on the AP.

During an interview with facility management, it was stated that law enforcement had made contact with a lead on the stolen jewelry case involving client #1. The facility identified the person who sold the stolen jewelry as the AP. The AP's employment was terminated for the theft and violation of vulnerable adult act policies.

Several attempts were made to contact the AP for an interview without success.

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:

A background check was conducted on the AP and showed cleared for employment. The AP signed as receiving information on understanding maltreatment of vulnerable adults and signed as receiving a copy of the employee's code of conduct and completed the new employee orientation that including training on vulnerable adult policies and procedures. The AP nonetheless chose to steal from clients.

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:

Free from maltreatment licensing order issued.

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
- Assessments
- 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: Nine

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: Died prior to site investigation

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: Died prior to site investigation

Did you interview additional residents? Yes No

Total number of resident interviews: Four

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 to contact:

Date:	Time:	Date:	Time:	Date:	Time:
<u>November 21, 20</u>	<u>09:30:00 AM</u>	<u>November 27, 20</u>	<u>03:00:00 PM</u>	<u>November 29, 20</u>	<u>09:00:00 AM</u>

If unable to contact was subpoena issued: Yes, date subpoena was issued November 29, 20 No

Were contacts made with any of the following:

Emergency Personnel Police Officers Medical Examiner Other: Specify _____

Observations were conducted related to:

Dignity/Privacy Issues

Safety Issues

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: Photos of property taken by Ramsey County Sheriff'

cc:

Health Regulation Division - Home Care & Assisted Living Program

The Office of Ombudsman for Long-Term Care

North Oaks Police Department

Ramsey County Attorney

North Oaks City Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H28191	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 01/26/2018
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NAME OF PROVIDER OR SUPPLIER WAVERLY GARDENS	STREET ADDRESS, CITY, STATE, ZIP CODE 2845 HAMLINE AVENUE NORTH ROSEVILLE, MN 55113
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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
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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 November 17, 2017, a complaint investigation was initiated to investigate complaint #HL28191003 . At the time of the survey, there were 97 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=E	<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

03/12/18

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 interview and documentation, the licensee failed to keep 2 of 2 (C1 and C2) clients reviewed free from maltreatment when a staff member stole jewelry from multiple clients on multiple occasions and sold some of the jewelry at a pawn shop for cash.</p> <p>This resulted in 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) at a pattern (when more than a limited number of clients are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive).</p> <p>The findings include:</p> <p>C1's Medical record was reviewed. C1 service agreement, dated October 6, 2017, indicated C1 received services from the comprehensive home care provider for medication administration, oxygen management and extensive assistance 24 hours / day.</p> <p>During an interview with law enforcement-(E) on November 29, 2017 at 2:30 pm, E stated that RA-G had been identified as the person who had sold C1's jewelry at a pawn shop. RA-G did an interview with law enforcement-E and admitted to stealing the jewelry and selling it to a pawn shop</p>	0 325		
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Minnesota Department of Health

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0 325	<p>Continued From page 2</p> <p>for cash. Law enforcement-E charged RA-G with possession of stolen property. RA-G plead guilty in court and was placed on probation.</p> <p>During an interview with C1's family member (FM)-C on December 5, 2017 at 2:10 pm, FM-C said that C1 always wore several pieces of jewelry. During a visit, those pieces of jewelry were discovered missing. Law enforcement (E) conducted an investigation and determined that a resident assistant (RA)-G had sold jewelry matching the description of C1's missing jewelry to a pawn shop. FM-C had been in contact with law enforcement and learned that RA-G had been arrested and charged with possession of stolen property. RA-G plead guilty to the charge in court.</p> <p>During an interview with the Clinical Administrator (CA)-A on November 17, 2017 at 12:09 pm, CA-A said that law enforcement had contact him/her with a suspect in C1's stolen jewelry case. CA-A identified RA-G as an employee. CA-A said there was no video footage because video was only held for 30 days. CA-A put RA-G on administrative leave pending further investigation. RA-G's employment was terminated as a result of pleading guilty for possession of C1's stolen property.</p> <p>C2's medical record was reviewed. C2's service agreement, dated January 3, 2017, indicated C2 received services from the comprehensive home care provider for medication management and assistance with daily living activities.</p> <p>During an interview with C2's family member (FM)-D, on December 27, 2017 at 11:30 am, FM-D stated an inventory had been done of C2's jewelry after receiving a letter regarding a</p>	0 325		

Minnesota Department of Health

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0 325	<p>Continued From page 3</p> <p>financial exploitation investigation at the licensee. FM-D said several pieces of C2's jewelry were missing. FM-D viewed pictures of recovered jewelry during law enforcement-E's investigation. FM-D identified two pictures of jewelry that closely resembled jewelry that belonged to C2. FM-D then filed a report with law enforcement.</p> <p>During an interview with law enforcement-F on January 11, 2018 at 2:00 pm, F stated C2 and FM-D had identified two pieces of jewelry as belonging to C2. Those pieces of jewelry had been recovered in RA-G's home during a law enforcement search warrant. F said that charges of possession of stolen property were being filed against RA-G.</p> <p>RA-G did not return several requests for an interview.</p> <p>A policy and procedure titled, "Vulnerable Adult Abuse Prevention Plan", dated January 2017, stated in part, "each individual has the right to be free from verbal, sexual, physical, and mental abuse, (including injuries of unknown source, corporal punishment, and misappropriation of resident property, mistreatment, neglect or involuntary seclusion. Any form of resident abuse, neglect or exploitation will not be tolerated."</p> <p>TIME PERIOD FOR CORRECTION: TWENTY-ONE (21) DAYS</p>	0 325		



Protecting, Maintaining and Improving the Health of All Minnesotans

Certified Mail Number: 70150640000458709978

March 12, 2018

Natalie Morland, Administrator
Waverly Gardens
2845 Hamline Avenue North
Roseville, MN 55113

RE: Complaint Number HL28191003

Dear . Morland :

A complaint investigation (#HL28191003) of the Home Care Provider named above was completed on January 26, 2018, for the purpose of assessing compliance with state licensing regulations. At the time of the investigation, the investigator from the Minnesota Department of Health, Office of Health Facility Complaints, noted one or more violations of these regulations. These state licensing orders are issued in accordance with Minnesota Statutes Sections 144A.43 to 144A.482.

State licensing orders are delineated on the attached State Form. The 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 are listed in the "Summary Statement of Deficiencies" column. This column also includes the findings that are in violation of the state statute after the statement, "This MN Requirement is not met as evidenced by."

A written plan for correction of licensing orders is not required. Per Minnesota State Statute 144A.474 Subd. 8(c), the home care provider must document in the provider's records any action taken to comply with the correction order. A copy of this document of the home care provider's action may be requested at future surveys.

A licensed home care provider may request a correction order reconsideration regarding any correction order issued to the provider. The reconsideration must be in writing and received within 15 calendar days. Reconsiderations should be addressed to:

Renae Dressel, Health Program Rep. Sr
Home Care Assisted Living Program
Minnesota Department of Health
P.O. Box 3879
85 East Seventh Place
St. Paul, MN 55101

Waverly Gardens
March 12, 2018
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It is your responsibility to share the information contained in this letter and the results of the visit with the President of your organization's Governing Body. If you have any questions, please contact me.

Sincerely,



Mike Kaehler
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) 201-4181 Fax: (651) 281-9796

MK

Enclosure

cc: Home Health Care Assisted Living File
Ramsey County Adult Protection
Office of Ombudsman
MN Department of Human Services