



Minnesota Department of Health

Office of Health Facility Complaints Investigative Report PUBLIC

Facility Name:

Augustana Emerald Crest Shakopee

Report Number:

HL29327001 and
HL29327003

Date of Visit:

March 10, 2016

Facility Address:

1855 10th Avenue West

Time of Visit:

9:00 a.m. - 4:45 p.m.

Date Concluded:

January 3, 2017

Facility City:

Shakopee

Investigator's Name and Title:

Saira Sidi, RN, Special Investigator

State:

Minnesota

ZIP:

55379

County:

Scott

☒ Home Care

Allegation(s):

It is alleged that a client was neglected when staff failed to provide adequate supervision and s/he ingested dishwasher detergent. The client was hospitalized.

- ☒ 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 a preponderance of evidence, neglect of supervision occurred when a staff member left a corrosive chemical detergent unattended and within the client's reach. The client drank some of the chemical and sustained burns to the throat, requiring hospitalization. The client subsequently died from complications of the ingestion.

The client had a history of dementia and was noted to have deficits in cognition, with poor judgment and decision-making. S/he also had the tendency to take food and drinks from the kitchen. The client's cognitive assessment noted that cupboards needed to be locked due to this behavior.

Staff interviews and documentation review indicated that, on the day of the incident, the client was in the dining area next to the kitchen waiting for breakfast. A facility staff member was changing and replacing an almost empty dishwasher detergent container of UltraKlene in the kitchen. The staff member left the detergent out on the counter. The client grabbed the cleaning solution, poured a glass and proceeded to take a sip as witnessed by another client. The client spit out the liquid, but then proceeded to drink a quarter cup of coffee. Approximately three hours later, the client began complaining of a sore throat and had continued to spit out phlegm, which contained blood. S/he was noted to have a swollen upper lip with a raspy voice. The registered nurse assessed the client and it was noted that the client's throat felt swollen. Emergency services was called. Staff reported they were not aware of the ingestion until this point.

The client was hospitalized for 13 days, was diagnosed with aspiration pneumonia and severe dysphagia

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(difficulty swallowing). The client was not able to eat or drink to sustain life, and died. The death certificate indicated the client died from complications of sodium hydroxide detergent ingestion.

According to information from the manufacturer, the detergent UltraKlene contains sodium hydroxide and is corrosive in nature, causes respiratory tract irritation, and is harmful if swallowed. If ingested, it causes burns to the mouth, throat, and stomach.

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:

The facility is responsible for neglect by leaving a corrosive chemical detergent unattended and within the reach of a client with impaired decision-making ability. Although the facility had policies and procedures related to hazardous material storage and handling, not all unlicensed staff followed them, because the facility failed to ensure all personnel were trained on the safety procedures for chemical use and storage at the facility.

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.)

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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:

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.

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.

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The Investigation included the following:

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

- ☒ Medical Records
- ☒ Care Guide
- ☒ Nurses Notes
- ☒ Assessments
- ☒ Physician Orders
- ☒ Treatment Sheets
- ☒ Care Plan Records
- ☒ Facility Incident Reports
- ☒ Activities Reports
- ☒ Therapy and/or Ancillary Services Records
- ☒ Service Plan

Other pertinent medical records:

- ☒ Hospital Records
- ☒ Death Certificate

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: 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: _____

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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: Deceased

Did you interview additional residents? ☒ Yes ☐ No

Total number of resident interviews: 1

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

Tennessee Warnings

Tennessee Warning given as required: ☒ Yes ☐ No

Total number of staff interviews: 8

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: _____

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:

- ☒ Personal Care
- ☒ Nursing Services
- ☒ Cleanliness
- ☒ Dignity/Privacy Issues
- ☒ Safety Issues
- ☒ Meals
- ☒ Facility Tour

Was any involved equipment inspected: ☐ Yes ☐ No ☒ N/A

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Was equipment being operated in safe manner: ☐ Yes ☐ No ☒ N/A

Were photographs taken: ☒ Yes ☐ No Specify: Storage area of detergent/ Kitchen area

cc:

Health Regulation Division - Home Care & Assisted Living Program

The Office of Ombudsman for Long-Term Care

Shakopee Police Department

Scott County Attorney

Shakopee City Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H29327	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED C 06/09/2016
NAME OF PROVIDER OR SUPPLIER AUGUSTANA EMERALD CREST SHAKOPEE		STREET ADDRESS, CITY, STATE, ZIP CODE 8150 BAVARIA ROAD VICTORIA, MN 55386		
(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>*****ATTENTION*****</p> <p>HOME CARE PROVIDER LICENSING CORRECTION ORDER</p> <p>In accordance with Minnesota Statutes, section 144A.43 to 144A.482, these correction order(s) are 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: On March 10, 2016, a complaint investigation was initiated to investigate cases # HL29327001 and # HL29327003 At the time of the survey, there were 29 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/Rules for Home Care Providers. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state Statute/Rule number and the corresponding text of the state Statute/Rule 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/RULES.</p>	
0 325 SS=J	<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: (14) the right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable</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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NAME OF PROVIDER OR SUPPLIER

STREET ADDRESS, CITY, STATE, ZIP CODE

AUGUSTANA EMERALD CREST SHAKOPEE

**8150 BAVARIA ROAD
VICTORIA, MN 55386**

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0 325	<p>Continued From page 1</p> <p>Adults Act and the Maltreatment of Minors Act;</p> <p>This MN Requirement is not met as evidenced by: Based on interview and document review, the licensee failed to ensure that one of one client (C1) was free from maltreatment when staff failed to provide adequate supervision by leaving a corrosive chemical detergent unattended and within the client's reach. This resulted in C1 having burns to the throat requiring hospitalization, and eventually causing death from complications of the ingestion.</p> <p>This practice resulted in a Level 4 violation (a violation that results in serious injury, impairment, or death) and is issued at an isolated scope, (when one or a limited number of clients are affected or one or a limited number of staff are involved or that situation has occurred only occasionally). The finding included:</p> <p>C1's medical records were reviewed. C1 moved into the facility on February 4, 2014. The client had a diagnosis of Dementia.</p> <p>C1's cognitive level assessment, completed by registered nurse (RN)-B on December 21, 2015, indicated the client was noted to have behaviors such as a tendency to get into the fridge and freezer, and take foods and drinks from the kitchen. Therefore, all cupboards had to be locked when unattended.</p> <p>C1's vulnerability, safety, and risk assessment completed by RN-B on January 9, 2016, indicated the client was noted to be vulnerable due to having deficits in cognition, memory, problem identification and solving, poor judgement, and decision making.</p>	0 325		

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0 325	<p>Continued From page 2</p> <p>A progress note completed by an occupational therapist, dated January 18, 2016, indicated that C1 had slight decline in overall cognition and relied heavily on verbal and visual cues to problem solve. The client was noted to have significant impairment in memory, judgement, problem solving, and decision making skills.</p> <p>A progress note completed by resident director/registered nurse (RN)-A, dated January 29, 2016, at 1:42 p.m., indicated that there had been a gradual slow decline in the client's cognition level and the client needed to be moved to an area with more supervision then where she was currently residing.</p> <p>An internal investigation report, dated February 4, 2016, and completed by RN-A, indicated the maintenance staff had left a half-filled bottle of dishwasher detergent on the counter while working on the dishwasher. C1 poured the liquid into a juice glass and proceeded to take a sip as witnessed by another resident. The client spit out the liquid, and then proceeded to drink a quarter cup of coffee. Approximately three hours later, the client was complaining of a sore throat and continued to spit out phlegm which contained blood. The client was noted to have a swollen upper lip and a raspy voice. Upon assessment by RN-A, the client's throat felt swollen and 911 was called. The client was taken to the hospital. RN-B tried to investigate what the client may have ingested, and concluded C1 had ingested a small amount of detergent. The facility investigative findings indicated the maintenance staff left a chemical within the client's reach without supervision.</p> <p>The Materials Safety Data Sheet regarding the</p>	0 325		

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0 325	<p>Continued From page 3</p> <p>chemical detergent UltraKlene (sodium hydroxide) from the manufacture, Ecolab, was reviewed. The product is a red liquid and is corrosive in nature. The product is listed as dangerous, causing respiratory tract irritation and may be harmful if swallowed. If ingested it causes burns to the mouth, throat, and stomach.</p> <p>Hospital records reviewed, dated February 17, 2016, at 4:51 p.m., indicated C1 had been hospitalized for 13 days upon admission after ingestion of a dishwasher cleaning solution and had aspiration pneumonia, severe dysphagia, and failure to thrive after the incident. On admission the client had increased white blood cell count, with chest x-ray showing bibasilar atelectasis which had gotten worse. The client was noted to have intermittent wet cough and pain with swallowing which remained compromised and there was no meaningful chance of recovery with continued aspiration. The client was not able to eat or drink to sustain her/himself.</p> <p>The death certificate, dated February 18, 2016, indicated the cause of death for C1 was related to complication of sodium hydroxide detergent ingestion.</p> <p>When interviewed on March 10, 2016 at 11:32 a.m., maintenance personel stated C1 was an early riser and would look for food in the kitchen. On the day of the incident, C1 had picked up an empty cup and was asking for breakfast. The staff member was changing the dishwasher detergent that needed to be replaced in the kitchen. The staff had his/her back and was at below waist level and did not see the client take the container of detergent, pour it in a cup, or drink it. The staff was not sure if the container from which the client had poured was capped or</p>	0 325			

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0 325	<p>Continued From page 4</p> <p>not, or whether they had locked the cabinet or not.</p> <p>When interviewed on March 10, 2016 unlicensed personnel (ULP)-F stated she had seen the maintenance staff change the dishwasher detergent. The dishwasher detergent was seen sitting on the kitchen counters. There was approximately an inch of liquid in the container and the maintenance personal was seen coming in and out of the facility.</p> <p>Policy titled "Hazardous Chemical/Material Storage and Handling," dated February 2, 2016, indicated the licensed home care provider on any unit that is providing services to residents with dementia will have all hazardous chemicals/materials locked unless being used under the direct supervision by staff, and the materials will not be left unattended when not locked up.</p> <p>TIME PERIOD FOR CORRECTION: Twenty-one (21) days</p>	0 325			



Protecting, Maintaining and Improving the Health of All Minnesotans

October 16, 2017

Ms. Margaret Owens, Administrator
Augustana Emerald Crest Shakopee
8150 Bavaria Road
Victoria, MN 55386

RE: Complaint Number HL29327001 and HL29327003

Dear Ms. Owens :

On September 1, 2017 an investigator of the Minnesota Department of Health, Office of Health Facility Complaints completed a re-inspection of your facility, to determine correction of orders found on the complaint investigation completed on June 6, 2016 with orders received by you on January 4, 2017. At this time these correction orders were found corrected and are listed on the attached State Form.

You are encouraged to retain this document for your records. It is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body. Please feel free to call me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Aglieco'.

John Aglieco
Health Program Representative-Senior
Minnesota Department of Health
85 East Seventh Place, Suite 220
PO Box 64970
St Paul, MN 55164-0970
Office 651-201-4212 Fax: 651-281-9796

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Enclosure

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