

This document has been re-scanned to the MDH website.

The compliance revisit was completed on 1/11/2016.



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Mendota Heights WP LLC
745 South Plaza Drive
Mendota Heights, MN 55120
Dakota County

Report #: HL29407003

Date: November 25, 2015

Date of Visit: June 15, 2015
Time of Visit: 9:15 a.m. – 3:30 p.m.

By: Darin Hatch, Special Investigator

- Type of Facility:**
- Nursing Home
 - SLF
 - Hospital
 - HHA
 - ICF/IID
 - Other: Comprehensive Home Care Provider
 - Home Care Provider/Assisted Living
 - Home Care

- Facility Self Report
- Complaint

Allegation(s): It is alleged that a client was financially exploited when a staff, alleged perpetrator (AP) took the client's pain medications for her/his own personal 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 the evidence, financial exploitation did occur when the AP took narcotic medication from the client for her/his own personal use.

Client # 1 received services from the facility for medication administration and had a physician's order for 5 mg of morphine solutab. Document review and interview with facility staff indicated client #1 was missing 15 tablets of 5 mg morphine solutabs. Facility staff indicated the 15 tablets were accounted for by staff and the AP on 4-20-15 at the start of the shift at 11:00 p.m. and were discovered missing on 4-21-15 after the AP worked. Facility staff indicated the client did not miss any doses of medications and did not have an increase in pain as a result.

Facility staff indicated during interview they saw the AP in the medication cart at 1:30 a.m. on 4-21-15 and the AP was the only person with access to the medication cart during the shift. Staff indicated no clients had any scheduled medications on that shift that night and no clients requested any medications on that shift that night, therefore there was no reason for the AP to be in the medication cart. Facility staff indicated the 15 tablets were accounted for by staff and the AP on 4-20-15 at the start of the shift at 11:00 p.m. and were discovered missing on 4-21-15 after the AP worked. Staff revealed the AP did not perform the required count with another staff person on 4-21-15 at 7:00 a.m., the AP left early at 6:00 a.m. without approval and without notifying anyone s/he was leaving early. The AP documented in the narcotic record that the quantity of morphine was correct, however one bubble pack of morphine solutabs containing 15 tablets was missing. Staff indicated they did not count the narcotic medications with the AP that morning as required by policy.

The AP was interviewed and denied the allegation.

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 comprehensive home care provider had policies in place to govern financial exploitation. The AP's personnel file showed the AP's acknowledgement of receiving the "Employee Handbook" which indicated any theft was unacceptable in the workplace and was grounds for "involuntary termination". The AP's personnel file showed the AP received training in regards to the policies in place.

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 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 Not Met

The requirements under State Statutes for Chapters 144 & 144A were not met.

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

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

Facility Corrective Action:

The facility took the following corrective action(s):

Definitions: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.

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.

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Medical Records | <input checked="" type="checkbox"/> Care Guide |
| <input checked="" type="checkbox"/> Medication Administration Records | <input type="checkbox"/> Treatment Sheets |
| <input checked="" type="checkbox"/> Facility Incident Reports | <input type="checkbox"/> Physician Progress Notes |
| <input checked="" type="checkbox"/> ADL (Activities of Daily Living) Flow Sheets | <input type="checkbox"/> Laboratory and X-ray Reports |
| <input checked="" type="checkbox"/> Physician Orders | <input type="checkbox"/> Social Service Notes |
| <input type="checkbox"/> Nurses Notes | <input type="checkbox"/> Meal Intake Records |
| <input type="checkbox"/> Activities Reports | <input type="checkbox"/> Weight Records |
| <input type="checkbox"/> Therapy and/or Ancillary Services Records | <input checked="" type="checkbox"/> Assessments |
| <input type="checkbox"/> Skin Assessments | <input checked="" type="checkbox"/> 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: Not cognitively intact

Did you interview additional residents: Yes No

Total number of resident interviews: 0

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 13

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

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

Attempts to contact: Date/time: 8-13-15/8:45 a.m. Date/time: 8-28-15/1:30 p.m. Date/time:

If unable to contact was subpoena issued: Yes , date subpoena was issued 8-28-15 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 Dignity/Privacy Issues Restorative Care
- Nursing Services Safety Issues Facility Tour
- Infection Control Cleanliness Injury
- Use of Equipment Transfers Incontinence
- Call Light Other: Medication Storage

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: Health Regulation Division – Home Care & Assisted Living Program
Mendota Heights City Police Department
Dakota County Attorney
Mendota Heights City Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H29407	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 08/13/2015
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NAME OF PROVIDER OR SUPPLIER MENDOTA HEIGHTS WP LLC	STREET ADDRESS, CITY, STATE, ZIP CODE 750 MAIN STREET SUITE 200 MENDOTA HEIGHTS, MN 55118
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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
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 is 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 June 15, 2015, a complaint investigation was initiated to investigate complaint #HL29407003. At the time of the survey, there were 40 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 Nursing Homes.</p> <p>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 and replaces the "To Comply" portion of the correction order. This column also includes the findings, which are in violation of the state statute after the statement, "This Rule is not met as evidenced by." Following the surveyors findings are the Suggested Method of Correction and 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	<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 the right to be free from financial exploitation for 1 of 1 client (C1). The violation is issued 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 limited number of clients are affected or one or a limited number of staff are involved or that situation occurred only occasionally). The findings include:</p> <p>Document review and interviews conducted between June 15, 2015 and September 17, 2015 indicated a preponderance of the evidence ULP-O did take 15 tablets of 5 mg Morphine from C1 sometime during her shift between the hours of 11:00 p.m. on April 20, 2015 and 6:00 a.m. on April 21, 2015 for her own personal use.</p> <p>C1's record was reviewed. C1 received services from the facility for medication administration according to a service plan dated February 13, 2015. C1 had a physician's order dated March 11, 2015 for 5 mg of Morphine to be taken PRN as needed for pain.</p> <p>A document titled Internal "Investigation Form" dated April 21, 2015, which indicates that 15 tabs of 5 mg Morphine in a bubble pack card was</p>	0 325		

Minnesota Department of Health

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0 325	<p>Continued From page 2</p> <p>missing from the med cart that belonged to C1 on April 21, 2015. The document indicated that unlicensed professional (ULP)-O signed the narcotic count sheet and indicated the count was correct. However, ULP-O took a bubble pack that contained 15 tablets of 5 mg Morphine belonging to C1. The missing medications were discovered by two staff from the next shift ULP-D and another ULP that conducted the count and reported the missing medications to the registered nurse. The document indicates the facility conducted an investigation and determined that ULP-O was responsible for the theft of the controlled substances.</p> <p>A document titled "Controlled Substances/Schedule II Drugs" dated February 2010, indicates "The agency will take all reasonable precautions to eliminate the theft, diversion or misuse of controlled substances and will comply with requirements regarding the safe storage and disposal of these drugs."</p> <p>During interview on June 15, 2015 at 2:14 p.m., registered nurse (RN)-A indicated that she conducted an investigation into the allegation of missing narcotics for C1. During the investigation, RN-A discovered ULP-O had taken 15 tablets of 5 mg Morphine from C1. She also indicated that ULP-O and ULP-K did not implement the facility procedure of double counting the controlled substances as required by facility policy to prevent theft of controlled substances the morning of April 21, 2015.</p> <p>During interview on September 17, 2015, ULP-O denied taking any medication from any clients.</p> <p>TIME PERIOD FOR CORRECTION: Twenty-One (21) days</p>	0 325		

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0 900	<p>144A.4792, Subd. 1 Medication Management; Comprehensive</p> <p>Subdivision 1. Medication management services; comprehensive home care license. (a) This subdivision applies only to home care providers with a comprehensive home care license that provide medication management services to clients. Medication management services may not be provided by a home care provider who has a basic home care license.</p> <p>(b) A comprehensive home care provider who provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.</p> <p>(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and client and client representative, if any; disposing of unused</p>	0 900		

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0 900	<p>Continued From page 4</p> <p>medications; and educating clients and client representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 22.</p> <p>This MN Requirement is not met as evidenced by: Based on document review and interview, the licensee failed to ensure staff consistently implemented the written medication management policies and procedures when an employee failed to count the controlled substances as required by facility policy. As a result, medications were diverted for 1 of 1 clients (C1) reviewed. The violation is issued 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 limited number of clients are affected or one or a limited number of staff are involved or that situation occurred only occasionally). The findings include:</p> <p>C1's record was reviewed. C1 received services from the facility for medication administration according to a service plan dated February 13, 2015. C1 had a physician's order dated March 11, 2015 for 5 mg of Morphine to be taken PRN as needed for pain.</p>	0 900		

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0 900	<p>Continued From page 5</p> <p>A document titled Internal "Investigation Form" dated April 21, 2015, which indicates that 15 tabs of 5 mg Morphine in a bubble pack card was missing from the med cart that belonged to C1 on April 21, 2015. The document states that unlicensed professional (ULP)-O pre-signed the narcotic count sheet and indicated the incorrect number of tablets remaining and that a ULP-K failed to do a proper count with ULP-O. The document indicates the facility conducted an investigation and determined that ULP-O was responsible for the theft of the controlled substances.</p> <p>A document titled "Controlled Substances/Schedule II Drugs" dated February 2010, indicates "The agency will take all reasonable precautions to eliminate the theft, diversion or misuse of controlled substances and will comply with requirements regarding the safe storage and disposal of these drugs."</p> <p>During interview on June 15, 2015 at 2:14 p.m., registered nurse (RN)-A indicated that she conducted an investigation into the allegation of missing narcotics for C1. During the investigation, RN-A discovered ULP-O had taken 15 tablets of 5 mg Morphine from C1. She also indicated that ULP-O and ULP-K did not implement the facility procedure of double counting the controlled substances as required by facility policy to prevent theft of controlled substances the morning of April 21, 2015.</p> <p>TIME PERIOD FOR CORRECTION: Twenty-one (21) days</p>	0 900		

State Form: Revisit Report

(Y1) Provider / Supplier / CLIA / Identification Number H29407	(Y2) Multiple Construction A. Building B. Wing	(Y3) Date of Revisit 1/7/2016
Name of Facility MENDOTA HEIGHTS WP LLC	Street Address, City, State, Zip Code 750 MAIN STREET SUITE 200 MENDOTA HEIGHTS, MN 55118	

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>00325</u> Reg. # <u>144A.44, Subd. 1(14)</u> LSC _____	Correction Completed <u>01/07/2016</u>	ID Prefix <u>00900</u> Reg. # <u>144A.4792, Subd. 1</u> LSC _____	Correction Completed <u>01/07/2016</u>	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 _____	Date:	Signature of Surveyor:	Date:
State Agency				
Reviewed By _____	Reviewed By _____	Date:	Signature of Surveyor:	Date:
CMS RO				

Followup to Survey Completed on: 8/13/2015	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		