



Protecting, Maintaining and Improving the Health of All Minnesotans

State Rapid Response Investigative Public Report

Office of Health Facility Complaints

Maltreatment Report #: HL302321565M

Date Concluded: September 30, 2022

Name, Address, and County of Licensee

Investigated:

Birchwood Arbors

750 1st Street NE

Forest Lake, MN 55025

Washington, County

Facility Type: Assisted Living Facility with
Dementia Care (ALFDC)

Evaluator's Name: Yolanda Dawson, RN
Special Investigator

Finding: Not Substantiated

Nature of Visit:

The Minnesota Department of Health investigated an allegation of maltreatment, in accordance with the Minnesota Reporting of Maltreatment of Vulnerable Adults Act, Minn. Stat. 626.557, and to evaluate compliance with applicable licensing standards for the provider type.

Initial Investigation Allegation(s):

The alleged perpetrator (AP) sexually abused a resident when she fondled the resident while she assisted the resident with a shower.

Investigative Findings and Conclusion:

The Minnesota Department of Health determined sexual abuse was not substantiated. Although there were unexplained bruises on the resident's forearms, there was not a preponderance of evidence that sexual abuse occurred.

The investigator conducted interviews with facility staff members, including administrative staff, nursing staff, and unlicensed staff. The investigator also contacted the primary care provider. The investigation included review of internal investigation notes, resident records, and observation of the resident.

The resident resided in an assisted living facility with diagnoses which included adjustment disorder with depressed mood, dementia with behavior disturbance, and functional diarrhea. The resident's service plan included assistance with showering, dressing, grooming, and toileting assistance. Facility assessments indicated the resident was anxious, depressed, had impaired judgement due to mental health issues, and was legally blind.

The resident's hospital record indicated the resident reported that a staff member came to her room and helped her remove her clothes. The resident stated the staff member then touched and kissed her on her lips and private parts. The resident denied physical abuse, however, did state the staff member took away her walker when she [the resident] tried to grab it. The resident stated she pressed her pendant light and when another staff member came to the room the assault ended. The record indicated a physical exam was performed and it was decided an x-ray was not needed for the bruises on the resident's arm. A sexual assault exam was not performed as the resident had showered since the incident.

The resident's nurse practitioner follow-up note indicated nursing was attempting to assist the resident with hygiene and the resident interpreted this as a sexual assault. The resident was clearly traumatized however, no evidence of assault was found, and a police investigation was also completed. The record indicated the resident's interpreted traumatic experience was likely secondary to a current urinary tract infection as well as dementia.

During investigation interviews, multiple staff members stated they did not recall when the resident acquired the bruises on her forearms. Staff stated the resident was having increased difficulty walking and she would occasionally bump into furniture or the walls. The staff further stated that during cares they noticed that the resident was having increased periods of confusion.

During an interview, the resident stated a staff member fought with her and wanted to have sex with her. The resident stated she was sitting by her room when the staff member approached her. The resident told the staff member not to touch her and to leave. The resident said the staff then left the room but not leave right away. The resident did not provide any further details of the incident.

During an interview, the AP stated she informed the resident she needed to change her because the resident had soiled clothing. The AP stated she then showered and dressed the resident. The AP stated after the care was provided the resident thanked her. The AP stated she did not recall seeing bruises on the resident's arms. The AP denied sexually assaulting the resident, grabbing the resident by her wrists, or struggling with the resident in any way.

During an interview, a family member stated the resident reported to family that a staff member sexually assaulted her. The family member took the resident to the hospital two days after the allegation to have the bruises on her forearms x-rayed. A sexual assault examination

was not performed. The family member stated the resident did not recognize the AP when she passed her in the hallway, however remained fearful that someone would harm her.

In conclusion, the Minnesota Department of Health determined sexual abuse was not substantiated.

“Not Substantiated” means:

An investigatory conclusion indicating the preponderance of evidence shows that an act meeting the definition of maltreatment did not occur.

Sexual Abuse: Minnesota Statutes, section 260E.03, Subd. 20

"Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a current or recent position of authority, to any act that constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), 609.3458 (sexual extortion), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse.

Vulnerable Adult interviewed: Yes

Family/Responsible Party interviewed: Yes

Alleged Perpetrator interviewed: Yes

Action taken by facility:

The facility initiated an immediate investigation into the allegation. The AP was suspended pending investigation. The facility implemented hourly safety checks for the resident to ensure safety. In addition, the facility contacted police and filed a MAARC report.

Action taken by the Minnesota Department of Health:

No further action taken at this time.

cc:

The Office of Ombudsman for Long Term Care

The Office of Ombudsman for Mental Health and Developmental Disabilities

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 30232	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 07/08/2022
NAME OF PROVIDER OR SUPPLIER BIRCHWOOD ARBORS			STREET ADDRESS, CITY, STATE, ZIP CODE 750 NE 1ST STREET FOREST LAKE, MN 55025		
(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 Initial comments On July 8, 2022, the Minnesota Department of Health initiated an investigation of complaint #HL302321565M/#HL302323100C. No correction orders are issued.	0 000			

Minnesota Department of Health

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

TITLE

(X6) DATE