

State Rapid Response Investigative Public Report

Office of Health Facility Complaints

Maltreatment Report #: HL306303766M
Compliance #: HL306306309C

Date Concluded: September 21, 2023

Name, Address, and County of Licensee

Investigated:

KSMS Our House LLC
204 14th Street NW
Austin, MN, 55912
Mower County

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

Evaluator's Name: Angela Vatalaro, RN
Special Investigator

Finding: Not Substantiated

Nature of Investigation:

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), facility staff, abused a resident when the AP forced a resident back into her wheelchair by her shoulders and told the resident to “shut up” during one of the resident’s behaviors.

Investigative Findings and Conclusion:

The Minnesota Department of Health determined abuse was not substantiated. A co-worker, unlicensed personnel (ULP), had varying details when recalling the incident of the AP pushing the resident into the wheelchair. The resident was assessed, had no injury, and did not recall the incident. Although not appropriate treatment telling a resident to shut up, the allegation did not rise to the level of abuse.

The investigator conducted interviews with facility staff members, including administrative nursing staff, and unlicensed staff. The investigation included review of the resident’s record, personnel files, facility’s policy and procedures, and the facility’s investigation into the incident.

The resident resided in an assisted living memory care unit. The resident's diagnoses included dementia. The resident's service plan included assistance with dressing, grooming, toileting, incontinence cares, and one staff assist with walking using a walker. The resident at times used a wheelchair independently and at times attempted to get up on her own to walk. The resident's assessment indicated the resident was alert to person, confused, had short term memory loss, and was unable to consistently provide accurate information.

Review of the facility's internal investigation indicated one day an ULP reported she witnessed the resident stand up from her wheelchair and the AP grab the resident by her shoulders and force the resident back into the wheelchair. The same investigation also indicated during one of the resident's behaviors, the AP told the resident to "shut up."

During an interview, the ULP did not recall the specific incident, and recollection of staff telling the resident to shut up or grab the resident by her shoulders forcing the resident back into the wheelchair were inconsistent.

During an interview, leadership stated they investigated and interviewed staff who worked the shift, and all other staff who worked at the facility. Leadership stated the staff who worked heard the AP tell the resident to "shut up." Leadership stated after conducting interviews, they could not determine if the AP grabbed the resident by her shoulders forcing the resident back into the wheelchair. Leadership stated due to the resident's cognition, the resident was unable to recall if an incident occurred. The resident was assessed for bruises and injuries; none were observed. Leadership stated there was no history of concerns regarding the AP's interactions with the resident or any other residents. Leadership stated they were unsuccessful in contacting the AP during the facility investigation.

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

Abuse: Minnesota Statutes section 626.5572, subdivision 2.

"Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

(2) the use of drugs to injure or facilitate crime as defined in section 609.235;

(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and

(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
- (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening

Vulnerable Adult interviewed: No. Unable due to cognition.

Family/Responsible Party interviewed: No, attempted but did not reach.

Alleged Perpetrator interviewed: No, did not respond to subpoena.

Action taken by facility:

The facility conducted an internal investigation. The AP is no longer employed by the facility.

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: 30630	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 08/24/2023
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NAME OF PROVIDER OR SUPPLIER KSMS OUR HOUSE LLC	STREET ADDRESS, CITY, STATE, ZIP CODE 204 14TH ST NW AUSTIN, MN 55912
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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>On August 24, 2023, the Minnesota Department of Health initiated an investigation of complaint #HL306306309C/#HL306303766M. No correction orders are issued.</p>	0 000		

Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____