

Home Care and Assisted Living Program

HOME CARE MATTERS CALL TRANSCRIPT

August 7, 2019

Speakers:

Lindsey Krueger

Mary Absolon

Jeri Cummins

Lisa Grohs

Operator:

Good morning, my name is Lady and I will be your conference operator today. At this time I would like to welcome everyone to the Home Care Matters Call. All lines have been placed on mute to prevent any background noise and after the speakers remarks there will be a question and answer session and if you would like to ask a question during this time simply press star (*) and the number 1 on your telephone keypad. If you would like to withdraw your question please press the pound key. Thank you so much and I will now like to turn the call over to our first presenter for today, Ms. Lindsey Krueger.

Lindsey Krueger:

Good morning. We welcome everybody to the Home Care Matters Call for Wednesday, August 7th, 2019. I'd like to introduce myself. My name is Lindsey Krueger. I am the current manager for the Home Care and Assisted Living program here at the Department of Health, in addition to my role as the director for the Office of Health Facility Complaints. I'd like to review the topics we will be covering on this morning's call.

We are going to be reviewing the new informational Bulletin 19-03 that was recently issued regarding finds for home care violations. We will be reviewing current violations that may trigger some of these fines in the future and walk through some tools for prevention. Next, we will discuss some of the top licensing orders being issued within the last quarter of April through June 2019. We will then review some information for temporary licensees and finally, we will open up for operated assisted question and answer session.

If you have questions regarding a specific situation or scenario related to your business or a specific survey or complaint, you can call or email those questions into the office at any time. The phone number into the office is 651-201-5273 and the email address is health.homecare@state.mn.us. Our contact information can also be located on our web page at Minnesota Department of Health.

Now, I'd like to turn it over to Mary Absolon, who is on our team for implementing the 2019 legislative changes to discuss the informational Bulletin 19-03. Thank you, Mary, for joining the call this morning.

Mary Absolon:

Thank you, Lindsey. It's really nice to be here and we appreciate everyone taking their time out of your day to be with us for this important information. I'll be reviewing this informational bulletin, which provide an overview of the, some of the 2019 Minnesota changes that were made to the home care, our state laws in Minnesota for protection for home care and assisted living settings. Just as a comment, we as many are aware, the Minnesota Legislature also enacted the new Assisted Living Facility Licensing System, which will be effective August 1st of 2021. There will be future information coming out related to the Department's activity on this topic. We will not be covering that on today's phone call. And then we also just wanted to give everyone a head's up that we will be issuing some information related to the Homecare Bill of Rights, which is effective August 1st, 2019, in terms of the changes. And please watch the Minnesota Department of Health website Gov delivery notices for that. And we'll review this information further after any other questions.

So, going to our Informational Bulletin 1903, we issued this bulletin because we wanted to inform all of our licensed home care providers of the recent changes to the Home Care Licensure Law found in Minnesota Chapter 144, which strengthened the Minnesota Department of Health fining and authority related to enforcement. The changes included fine amounts which have increased for violations under home care, new fines, financial penalties established for maltreatment violations under Minnesota's Vulnerable Adult's Act, new authority for imposing immediately fines found during a complaint investigation, a survey or a follow-up visit, and a new maltreatment compensation fund established for clients who are subjected to maltreatment.

Part of the background of this is that, effective July 1st, there were these additional protections were put into place. And this was the result of a joint stakeholders group convened within the state of Minnesota and hosted by the Minnesota Department of Health. The changes, the goal once again was to have, give the health department greater authority over licensed homecare providers who failed to comply with Minnesota's Vulnerable Adult's Act, as well as our homecare licensure standard. And these fine amounts focus in on areas that are a more serious violation. So, reviewing the immediate fines, and what immediate fines mean is that when this level of violation is found, that there will be an immediate fine amount that will be imposed. Prior to this time, there was identification of a violation and there was an opportunity to correct prior to the fine for the more serious violations. And the basis for this is to prevent these kinds of things from happening because we really don't want people to be harmed.

So going into a little bit more detail, under Minnesota Statutes §144A.474, subdivision 11, licensed homecare providers who provided care to their clients in their home and assisted livings may be subject to immediate fines without an opportunity to correct. And the fine amounts are based on the level of severity as found during an on-site investigation. The level two violation, which would be identified as widespread, meaning that it has the potential to

affect all the clients in a setting but did not cause serious injury, impairment, or death is then set at \$500. A level three violation which has harmed the client's health and safety but did not cause serious injury, impairment or death, or a violation that had potential to lead to that is set at \$3,000. And then level four incident was set at \$5,000, which resulted in serious injury, impairment or death.

Moving on, Minnesota's Strong Vulnerable Adult Act has been in place and the Minnesota Legislature has given the Department authority to impose immediate fines. If there is a maltreatment violation that is found, the fine is \$1,000. And then if the maltreatment violation related to sexual assault, death or abuse resulting in serious injury, that has been set at \$5,000. These fines once again will be imposed without any opportunity to correct. These are situations that, as we said, we really don't want to be happening in Minnesota.

The real focus and part of what we're going to be covering today during our phone call are steps that we can all take together to prevent things from, you know, happening to people that are harmful. And to stem the rise in abuse and neglect that we have been identifying in our investigations and surveys. As you know, many of these settings serve people who are vulnerable adults. The Health Department ongoing will be focusing in on outreach to education of staff related to maltreatment. And a key part of that that we wanted to emphasize here is the importance for each person to be individually assessed. Each person is an individual and so that is a key component to our, to delivering the appropriate services. When we do find a violation, as part of our process, the Health Department will be working very closely with homecare licensees to identify how effectively to address the violation and to assure that this does not reoccur. We will continue to work and support the efforts in our provider and advocacy community. And part of those efforts are manifested today in our statewide phone call. And we're so pleased that you're all listening to this.

Once again going into, we then have in the bulletin the modification to the state law was found in the House File 90. That's referenced then in the information bulletin. We've actually completed the actual language, so if you have any questions about that, that's available.

Now, I'm going to go through the Maltreatment Compensation Fund that was established. This Maltreatment Compensation Fund was the first time this has been established within our laws. And so, we are implementing this and one of the reasons we issued this bulletin was to make you all aware of that. So, effective July 1st, this gives homecare clients the ability to receive compensation if there's an investigation, onsite visit that found to be subject to maltreatment to which the licensee was determined to be responsible. The client who may accept payment in that amount, if there is a waiver of any civil claims, and that would be, that process would then take place after the state Health Department has substantiated a report of maltreatment. We are in the process of establishing a process and a notice process for those clients who would be involved in that and working through the details of that.

The other area that we wanted to share has to do with prioritizing enforcement of service legislation. A top priority for the state legislature and now for the Health Department, directed by our, in the state law, is that the Health Department will prioritize investigations into any kind

of assisted living termination related to service termination. And so, part of the conversation that we've had was to prioritize areas that were troubling to consumers. And so we are once again doing outreach here so that our provider community is aware of that. And what that means is that if we would receive a complaint or an allegation like that, that that would be a high priority for us to investigate that.

So with that, I'm happy to turn this back over to Lindsey. Part of the other message that we have is that there will be ongoing communication from the Health Department. Please make note of finding out from informational bulletins, the Gov Delivery, and then once again, please watch as information will be forthcoming related to our changes in Homecare Bill of Rights, and over the next month ahead related to implementation of our Assisted Living Licensure Law, which will be going into effect on August 1st of 2021. Lindsey, thank you very much and I'll turn it back to you.

Lindsey Krueger

Thank you, Mary. I'm now very pleased to introduce Jeri Cummins, one of our home care and assisted living supervisors. She will be reviewing two key areas for prevention that we are finding on current surveys and complaint investigations, and that will be subject to the immediate fines under this new law. Jeri will also be reviewing a new most frequently cited violation. Thank you Jeri, and we appreciate your time and energy. Take it as well as.

Jeri Cummins

Thank you, Lindsey. I would like to review with you under the Homecare Bill of Rights, subdivision 1, 2, it states that the person who receives homecare services has the right to receive care and services according to suitable and up-to-date plans and subject to acceptable healthcare, medical, and nursing standards. Oftentimes, when we issue the order at level three or four, which is subject to these immediate fines, it is in relationship to fall, related to a client who's not assessed for cognitive factors of the fall to determine individualized interventions to potentially prevent further falls or injury. And the client was harmed or sustained serious injury, impairment or death. So, to look at prevention for client falls, I'd like to refer you to MDH's Informational Bulletin 02-14. It speaks to the healthcare providers to go about assessing and implementing interventions of individuals who had recent falls or are at risk for falls. The bulletin outlines research regarding assessments, planning, interventions and evaluation. You can see that on our website. Also, one of the violations that will rise to the level of the immediate fine under (inaudible) practice would be regarding development of pressure injuries. And we'd like to, excuse me, I have to cough here. Our standard of practice would be the National Pressure Ulcer Advisory Panel. It is a national standard of practice in regards to assessment prevention, interventions, and healing of pressure injuries.

Mary Absolon

No, want me to finish that for you?

Jeri Cummins

Yeah.

Mary Absolon

So this is Mary Absolon again. So, as Lindsey was saying (audio cuts out) to, you know, to implement this here at the State Health Department. And so, we're here to help our colleagues here, just as all of you do often together. In turn, that's how we get wonderful services that are delivered to our clients out there. So, as Jeri was saying, part of our, in reviewing the immediate imposition, we really wanted to look at what are the areas currently in our citations which are related to harm that could potentially trigger an immediate fine based on our past survey and complaint investigations. And those two areas are, primarily the big areas are relate to falls as well as related to pressure injury. So, part of what we were reviewing were strategies and approaches to prevent those kinds of things from happening. And as Jeri was saying, we have wonderful information on the website as well as on the National Pressure Ulcer Guidelines. And so we wanted to bring that to your particular attention, because part of what we really are doing outreach on is how to prevent. And so we would like to prevent those fines from being imposed immediately.

The other area that we wanted to cover with you is that the health department here aggregates data and we look each quarterly in terms of, oh, what are the most recent kinds of violation that, in terms of trends? And one of the areas that we wanted to cover with you has to do with the treatment, the individualized treatment and therapy plan. This is found under Minnesota Statutes §144A.4793, Treatment and Therapy Management Services. And key to this also are the definitions of treatment and therapy that addresses the provision of care not related to medications that are ordered or prescribed by health professional, provided to our clients to cure, rehabilitate, or ease assistance. And so, these are provided by our, you know, licensed homecare providers. What we're finding is that the treatment plan has not been completed and the violations have been increasing quite significantly related to that plan. And the importance of a plan is to have those implements in place and then that provides direction for the staff for implementing a meaningful particular need. So, we wanted to bring that to your attention and wanted to prevent that from occurring. Thank you very much, Jeri, for putting this excellent information together, and we will now turn this back over to Lindsey Krueger.

Lindsey Krueger

Thank you Jeri and thank you, Mary. I'm happy to highlight other tools to assist your readiness for surveys. HCALP does have a webpage called Homecare Provider Survey Readiness, which provides these services, including survey forms and audit tools. These are some of the same forms that MDH staff use when conducting a survey. Reviewing the forms will help providers and your staff understand what MDH will look at when we visit. So head on over to the Homecare Survey's Readiness page for more information. Now, I'm pleased to introduce Lisa Grohs, who is one of our licensing specialties here at HCALP, who has key information for entities holding temporary licenses. Thank you, Lisa. Please go ahead.

Lisa Grohs

Thank you, Lindsey. Good morning. Today, I wish to go over with you the information needed when you complete and submit the notice from temporary licensee of providing homecare services, and also the form where homecare provider change of information is submitted. Both of these forms are located on the Minnesota Department of Health homecare and assisted

living website. In the spotlight section, in the upper right side of the web page. The web page is located at www.health.state.mn.us. Before you submit your completed notice from temporary licensee of providing homecare services, please make sure you have completed all the sections and include a copy of the client signed service agreement and service plan. We are receiving a lot of incomplete notices of providing services, which are missing the information on page two. The most common information that's being missed is the licensee's current client payment for homecare services. Please check one of those boxes as to how the client plans to pay you for your homecare services. In addition on that page two, it also states that you also need to include a copy of the client-signed service agreement and plan. The Minnesota Department of Health Homecare and Assisted Living would like to thank you also for providing the homecare provider change information forms that you're submitting. Any of these changes must be received in order for us to keep your license file record up to date, and these submissions have been very helpful in allowing us to keep your information up to date for survey and license renewal communications. Thank you again for your submissions.

Lindsey Krueger

Thank you, Lisa. Now, I do want to highlight what Lisa just mentioned. Temporary licensees who have not started services need to notify the Department within five days of services being started. We are not seeing this consistently being done by the temporary licensees. Effective July 1st of 2019, if this notification is not provided within five days, the licensee will be issued a \$1,000 fine. The Department of Health will be notifying current temporary licensees of this potential fine for those we have not heard from. This information, and this language and change to the regulation is in Senate File 12, Article 11, Section 42. And this is a new fine. And like I mentioned, it will be, we will be sending out additional information to all those temporary licensees who we have not heard from yet. And finally, I'd like to open it up to the operator for assisted question and answer session. As a reminder, if you have questions regarding a specific situation or scenario related to your business or a specific survey or complaint, you can call or email those into the office at any time. The phone number is 651-201-5273 and the email address is health.homecare@state.mn.us. Our contact information is also located on our web page at MDH. All right, Lady, let's go ahead and open it up for questions.

Operator

Thank you so much. At this time, I would like to remind everyone, in order to ask a question, please press *, then the number 1 on your telephone keypad. Again, that's *1 on your telephone keypad. We'll pause for just a moment to compile the Q&A roster. Again, if you would like to ask a question, please press *1 on your telephone keypad. We have a question from anonymous line. Please state your first and last name and your facility name, your line is now open. For those who press *1, please state your first and last name and your facility name. Your line is now open.

Laura

Laura (inaudible), Forrest Consulting.

Mary Absolon

Hey, Laura, what's going on?

Laura

Hi, Mary. This question is for you. It's in regards to clarification on the Bill of Rights. If that was required August 1st, I'm just wondering will the Department, as they have done in the past, revise the Bill of Rights as required and then post it and then also post the implementation deadline dates?

Mary Absolon

Yes, we will be doing that. We will be, we were just meeting with some stakeholders this week actually on that. So, what we're going to do, it'll be within the next very short period of time. We're going to initially post the couple of pages of changes to the state law on the website that, because providers, because that law is going into effect on August 1st of 2019, to provide some direction to providers that they can simply give those changes to current clients with the appropriate Bill of Rights. And then for new ones, after August 1st, you could just combine those specific changes with the appropriate version of the Bill of Rights. And then the second thing that we will be doing is that we will then be updating the various versions of the Bill of Rights and placing those on the Health Department website, and there was some questions related to some of the package of laws that passed in conjunction with our whole assisted living homecare framework. And so we're working through those right now.

Laura

Great, thanks a lot, Mary.

Mary Absolon

You're welcome and it's nice to hear your voice.

Laura

Thank you.

Operator

Your next question comes from Abby Tina. Please state your facility name, your line is now open.

Abby Tina

Okay, my facility is Visiting Angels. It's a homecare agency and I just wanted to get maybe a little bit more clarification or examples as far as the fall prevention and falls that might impose an immediate fine. So, what have you seen that's been the most frequent infraction as far as that?

Jeri Cummins

This is Jeri. What we see in relation to those violations is that a client will have a history of falls and they're not individually assessed for cognitive factors, and the client continues to have falls and they are harmed. Or they, the received an injury, had a hip fracture, subdural hematoma

when there's direct evidence that there wasn't any assessments or interventions put in place. So that's that high level. They look at them all individually.

Abby Tina

Okay, okay, okay. All right, perfect, I just wanted to clarify on that, thank you.

Jeri Cummins

You're welcome.

Operator

Thank you. Your next question comes from Kathy Neilson, of Adara Home Health. Your line is now open.

Kathy Neilson

Thank you. My question pertains to theft by an employee. If an Agency has performed, you know, the criminal background studies and done all of the training, you know, that's required, and an employee makes a personal decision to steal something from a client, is the Agency then subject to a fine?

Lindsey Krueger

So Kathy, this is Lindsey. So, to help answer your question, an investigation would need to be done. Each investigation is unique. And so, as far as who is found responsible for the maltreatment under financial exploitation, there is mitigating factors under the Vulnerable Adult's Act that the staff or the investigator would go through during their investigation to determine who would be substantiated against. So, I would refer you to the mitigating factors in the Vulnerable Adult's Act, to further review those, and that's in subdivision 9(c)(c). Does that answer your question?

Kathy Neilson

Sure. I'll look at those mitigating factors.

Lindsey Krueger

Like I said, Kathy, each investigation and situation is unique, and so the mitigating factors, yeah, go ahead and look at those and those will help give you a little bit more guidance as to what our investigators do look at during the investigation and to determine who is substantiated against.

Mary Absolon

And Lindsey, I believe the Health Department places on our website the completed maltreatment investigation. And so those are sorted, sorted by that. What would they look at under like the homecare, in terms of ones that are substantiated?

Lindsey Krueger

Sure, so the Health Department does put our public reports on our website. You can go ahead and search through those as far as the determination of the maltreatment. And then when you click on a report, it will indicate what the allegation was or the allegation code prior to clicking

and reviewing the report as far as financial exploitation. You can go ahead and see that at that time.

Kathy Neilson

Okay, thank you.

Lindsey Krueger

You're welcome.

Operator

Thank you, and your next question comes from Robby Holland. Please state your facility name, your line is now open.

Robby Holland

I'm from Spot. I'm here in St. Cloud and my question was similar to the one previously asked, but I was also wondering if the immediate fines are if you're speaking about an Agency's staff who may engage in some type of an act that would violate the Vulnerable Adult statute, or if it is for failure to report maybe things that are being done to our clients by somebody else who's not within our, who's not employed by our agency.

Mary Absolon

So, the 2019 informational bulletin identifies where that Immediate Fine Authority would come in, in terms of just the harming or else that, or substantiation under the Vulnerable Adult Act for maltreatment. The second part would be if, and that would be if there are staff that are under contract from a licensed homecare provider, they're the responsibility of that licensee and the licensee would be held accountable for that.

Lindsey Krueger

And this is Lindsey, I just want to jump in here too. The maltreatment would need to be substantiated against the facility for the maltreatment fine to be issued to the facility.

Robby Holland

Okay, thank you.

Lindsey Krueger

You're welcome.

Operator

Thank you. Your next question comes from Shandra Nauts (sp?) of Booker Methodist. Your line is now open.

Shandra

Yes, I was just wondering, we have a change in our director of nursing, and as I look on the change of information, it doesn't look like it has a spot to include that to send in.

Mary Absolon

Any changes to the nursing staff are reported when you submit your annual renewal now. We no longer require that reported, you know, every time an employee is removed or replaced.

Shandra

Okay, okay. Perfect, thank you.

Operator

Again, if you would like to ask a question, please press *1 on your telephone keypad. And Lauren Bartlett of St. Benedict, your line is now open.

Lauren Bartlett

Hello. Could you just recap for me under the Comprehensive Homecare Bill of Rights, the changes made?

Mary Absolon

The specific modifications to the Bill of Rights? That's your question? I would direct you actually to the House File 90, which actually you can link into under the, in the Informational Bulletin 1903 under fining authority. And it's found on page, I believe it's 134, if I recall. Primarily, what we have, the modifications are, am I right? 134. 133. It's actually 133, 134, 135. There's some just clean-up language regarding the right to, the second was related to advanced notice of discharge related to the client residing and then it actually references the new assisted living licensing. So, some of these are going to be implemented with that law. There was also a modification to a right related to recording ability of a client to be able to recommend changes in policies and services free from retaliation including the threat of termination of services, and then there is also a right related to the placement of electronic monitoring in the clients' or residents' space in compliance with state requirements. There are additional requirements that are potentially also included in there, subject to fine. It also directs that providers need to, the licensees need to encourage and assist to the fullest possible, exercising these rights, providing the names and phone numbers of appropriate organizations for advocacy and legal services, and ability to assert these rights. Information related to public reimbursement for Medicare and Medicaid, another program, information related to reasonable accommodation as well as information needs to be in plain language, there's a write related to that. And that, in addition, a component related to that no rights can be waived for any reason, including as a condition of initiating services. So, we will be posting that information, those specific changes, just as they are, and then we'll be working through the process of updating those bill of rights. Did that answer your question?

Lauren Bartlett

Yes, that helped clarify my question. Thank you.

Mary Absolon

Yes, and if you have any other follow-up detail, please, you know, happy to follow up on that.

Lauren Bartlett

May I ask one more thing? So, before the revised Bill of Rights comes out, you will, you stated, you know, be posting these changes. Do you recommend then that we, prior to the updated ones coming out, do an addendum of some sort with the client then? With the changes, being, became effective August 1st? Or do you have any recommendations on that or...

Mary Absolon

Yes, what the Department will be posting are the specific legislative changes as are written, enacted by the legislature. And this is about one, two, three, four pages. And those, we're going to post that on our website as a PDF and that actual document can then be given to the clients who have previously received the other Bill of Rights. And these are just those new changes, and then for you to make note of who you communicated that to, and the date that you communicated that and then just to keep track of that. And if you just marry that up with the other Bill of Rights, then people have been informed of those rights, and so that would be a way to then inform people of those rights.

Lauren Bartlett

Okay and you'll have that on your website, you stated, correct?

Mary Absolon

We will, we will. We have all of our rights on one place on the website and so it'll be posted there, and so, then the direction that we give related to this, we put in red on the website. So it's drawn to peoples' attention.

Lauren Bartlett

Perfect, perfect, thank you so much.

Lindsey Krueger

Thank you.

Mary Absolon

Thank you.

Operator

Thank you. again, if you would like to ask a question, please press *1 on your telephone keypad. We now have Sophia Elwood at Home, please, I'm sorry, your line is now open.

Sophia Elwood

Hi, I'm Sophia Elwood from Catholic Elder Care at Home. I just wanted some clarification on someone had mentioned about the treatment plan and therapy, but, for some reason it wasn't clear, the explanation wasn't clear of what they were stating. Are you saying if someone on our assisted living is having homecare, Medicare homecare therapy, we should also have a treatment plan for the therapy or the recommendation that the therapist made after the session?

Lindsey Krueger

I want to clarify something, did you indicate your client is on Medicare? So are you an HHA?

Sophia Elwood

No, we're, you're breaking up. I can hardly hear you. No, but if I did hear you correctly, we are assisted living, but earlier someone had mentioned about the treatment plan and they mentioned something about therapy and it wasn't coming out clearly and when I didn't hear it, the explanation, what deficiency are being given due to some of the treatment plan is not being filled out thoroughly. So I was just wondering if someone in our facility is seeing homecare physical therapy, should we be doing a treatment plan to reflect that as well?

Jeri Cummins

If, if the homecare provider is doing physical therapy or is doing range of motion, then the facility would be required. However, if your client goes outside of assisted living or, for physical therapy or another Agency is coming into the, your assisted living to provide it, you would not need a plan. So, basically, if you as the licensee homecare provider is providing that physical therapy, range of motion, you're required to plan.

Sophia Elwood

Treatment plan, okay. And just one more question, could you please define what treatment plans are? Because it seems sometimes nurses are confused what are treatment. So, if you could just define what are you looking for when you survey and what you define as treatments in assisted living?

Jeri Cummins

Sure, the definition within the statutes for treatment or therapy, it means the provision of care other than medication ordered or prescribed by a licensed health professional provided to a client to cure, rehabilitate or ease symptoms. So the type of treatment that we see in the license-only homecare providers includes such things as oxygen, wound care, (inaudible), feeding programs, range of motion. There's quite a list. If you go back to the definition of services, or treatments, you can compare them to the services that you are providing to see if it meets that definition.

Sophia Elwood

Okay, thank you.

Jeri Cummins

Yeah, and then to review 144A, Client Report 793, it will give you five different areas that you must have your client records when you are providing treatment.

Sophia Elwood.

Definitely. Okay, thank you.

Operator

Thank you so much. And there are no further questions at this time. Presenters can continue.

Mary Absolon

Before Lindsey closes out, this is Mary again, once again we want to emphasize the importance of prevention and we also wanted to let you know that, as we are prospectively implementing the imposition of the immediate fines that we'll be looking at each case very closely to make sure that it meets these criteria. These are in effect as of July 1st and so it would be for incidents July 1st or after. And so, we are going through that deliberative process as part of our implementation team at the State Health Department. Thank you very much, Lindsey.

Lindsey Krueger

Thank you, Mary. Thank you very much for participating in the call today. Transcript of the call will be uploaded to the Home Care Matters web page on a future date. Have a great day.

Operator

Thank you so much for participating on today's call. This concludes today's conference. You may now disconnect. Presenters, please stand by.