Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint Investigation Report-Revisit

Assisted Living Program: **Complaint Intake #: 11491R**

Jim Hunter, Executive Director
Legacy Gardens
15 Silvercrest Place
Iowa City, IA 52240-2591

Date of Investigation:

August 27 & 28, 2007

Monitor(s):

Stephanie Cummins, SW MA
Ann Martin, RN
Lincoln Newsom, RN

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to, and approved by, the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are rule violations [321 IAC 26.2(5)(a)]. The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 321 IAC - chapter 25 that either serves five or more tenants with dementia or cognitive disorder staged between 4 and 7 on the Global Deterioration Scale or holds itself out as providing special care for persons with cognitive disorder or dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site revisit was conducted at Legacy Gardens on August 27 & 28, 2007. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* **–** Not applicable.

Dementia Specific Program (DSP)* **–** A program that is a Dementia Specific Program by definition or holds itself out as providing specialized care in a dedicated setting but may have tenants without cognitive disorder.

Current number of tenants in a DSP that holds itself out as providing specialized care in a dedicated setting:	22
Current number of tenants without cognitive disorder:	0
Total Population:	22

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Accreditation Status – Not Applicable

Complaint History – There were substantiated complaints this certification period in the areas of: Evaluation of Tenants, Service Plan, Medications, Nurse Review, Staffing, Dementia-Specific Education for Program Personnel, Life Safety, Record Checks, Exit Door Alarm System and Other.

The complaint history during this certification period includes the complaint investigations of: April 19, 20, 23, 24 & 25, 2007 and June 11-14, 2007. The April 19, 20, 23, 24 & 25, 2007 complaint investigation resulted in a fine of $5000.00, the issuance of a conditional certificate through July 17, 2007, a directive to not admit any tenants while under the conditional certification and the requirement that the Director of Nursing (DON) and Executive Director (ED) attend assisted living program management training.

The June 11-14, 2007 complaint investigation resulted in a fine of $7,500.00, the issuance of a Conditional Certificate through September 17, 2007, documentation that the ED and DON have completed the assisted living program management training, weekly updates submitted to the DIA regarding staff training and nurse delegation, 30 day nurse reviews, and a delay in software implementation of tenant files until the Conditional Certificate is lifted by the DIA .

Complaint Investigation – The complaint investigator(s) made the observations detailed in the following areas.

A. Evaluation of Tenant - The program evaluates each tenant's functional and cognitive abilities and health status and the determination of needed services as required. [321 IAC 25.23(1) and/or (2)]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently completing cognitive, health and functional evaluations prior to taking occupancy, within 30 days of taking occupancy, as needed with a change in condition and annually.

Monitoring Observation: Tenant #7 was discharged on 5-30-07, Tenant #11 was discharged on 6-19-07 and Tenant #13 was discharged on 5-24-07.

Eight tenant files were reviewed.

Tenant #1, a 72 year old, was admitted on 5-9-06 and diagnoses include: Dementia and Seizure Disorder. The tenant is staged at a six on the Global Deterioration Scale (GDS), which indicates severe cognitive decline. The tenant receives Hospice services. The tenant had an order dated 7-3-07 for Ted Hose to be put on at 0800 and taken off at 2000. The tenant was admitted to Hospice on 7-6-07. The health evaluation was updated on 7-6-07; however, cognitive and functional evaluations were last completed on 6-4-07 and not completed as needed with a change in the tenant's condition.

Tenant #4, an 82 year old, was admitted on 3-29-06 and diagnoses include: Alzheimer's Dementia, Constipation, Hypertension (HTN), Insomnia and Pain. The tenant is staged at a seven on the GDS, which indicates very severe cognitive decline. The tenant receives Hospice services. According to incident reports, the tenant had two falls in two weeks on 7-28-07 and 7-31-07. According to nurse's notes dated 7-31-07, the tenant had a cut on the back of his/her head as a result of a fall. The tenant was taken to the hospital and received staples. The service plan was developed on 6-4-07, and was updated on 8-7-07 to reflect bed and chair alarms to be used at all times. Cognitive, health and functional evaluations were last completed on 6-4-07 and not completed as needed with a change in condition.

Tenant #5, an 81 year old, was admitted on 10-25-06 and diagnoses include: Alzheimer's Disease, Depression and Anxiety. The tenant is staged at a seven on the GDS, which indicates very severe cognitive decline. The tenant's service plan was developed on 6-5-07, and it was updated on 7-18-07 to reflect a chair alarm on at all times and the tenant must have assistance with ambulation or use of a wheelchair. Cognitive and functional evaluations were last updated on 6-5-07. The health evaluation was completed on 6-18-07 and not completed, as needed, with a change in the tenant's condition.

Tenant #9, a 90 year old, was admitted on 3-22-06 and diagnoses include Alzheimer's Disease and Constipation. The tenant is staged at a six on the GDS, which indicates severe cognitive decline. According to the tenant's service plan, the tenant had two new orders for treatments to the tenant's groin, dated 7-17-07 and 7-25-07. Cognitive, health and functional evaluations were last completed on 6-5-07 and not completed, as needed, with a change in the tenant's condition.

Tenant #10, an 83 year old, was admitted on 3-27-07, and diagnoses include: Alzheimer's Disease, Anxiety, Constipation, Back Pain, Bipolar Disorder, Delusions and Depression. The tenant is staged at four to five on the GDS, which indicates moderate to moderately severe cognitive decline. The tenant's service plan was developed on 6-5-07 and was updated on 7-8-07 to add the use of a walker due to pain in the back and knee. Nurse's notes dated 7-8-07 indicate the tenant's ambulation was unsteady and the tenant was instructed to use a walker. Nurse's notes dated 7-20-07 stated the tenant's ambulation was steady with a walker, the tenant could walk without the walker; however, the tenant indicated he/she was more confident with the walker. Cognitive, health and functional evaluations were last completed on 6-5-07 and not completed, as needed, with a change in the tenant's condition.

Tenant #12, an 86 year old, was admitted on 11-6-03, and diagnoses include: Alzheimer's Disease, Anxiety, Aspiration, Benign Prostatic Hypertrophy (BPH) Hematuria, Diverticulosis and Hypothyroidism. The tenant is staged at a seven on the GDS, which indicates very severe cognitive decline. The tenant receives Hospice services. According to a physician order dated 8-24-07, the tenant received Lorazepam one mg tablet 30 minutes prior to dressing changes or bathing, for anxiety. Cognitive, health and functional evaluations were last completed on 6-4-07 and not completed, as needed, with a change in the tenant's condition.

Tenant #14, a 76 year old, was admitted on 9-9-05 and diagnoses include: Acid Reflux, Chest Pains, Dementia, HTN, Hyperlipidemia and Pain. The tenant is staged at a six on the GDS, which indicates severe cognitive decline. According to nurse's notes dated 6-30-07, the tenant's cognitive ability had decreased, the tenant was less aware of surroundings, wandered, gets agitated more easily and sleeps more. The service plan was updated on 7-24-07 to reflect orders received to help with the tenant's agitation and wandering. Nurse's notes dated 7-12-07 indicate the tenant's urine was cloudy. The tenant had a Urinary Tract Infection (UTI) and was prescribed an antibiotic on 8-7-07. The service plan was updated on 8-7-07 to reflect routine two hour toileting and if the tenant was wet, to increase toileting to every hour. According to a physician's order, Immodium was ordered, a two mg tablet twice a day for seven days, for diarrhea. On 8-6-07 the a.m. dose was discontinued and a low roughage diet was ordered. Cognitive, health and functional evaluations were last completed on 6-26-07 and not completed, as needed, with a change in the tenant's condition.

- Regulatory Insufficiency: The program does not consistently complete cognitive, health and functional evaluations, as needed, with a change in the tenant's condition. (25.23 (2))

B. Tenant Documents – Program maintains a complete file for each tenant containing all appropriate documentation. [321 IAC 25.27]

During the course of the complaint revisit, the following information was obtained.

Monitoring Observation: Eight tenant files were reviewed. Tenant #1 had a general Power of Attorney (POA) and a Durable Power of Attorney (DPOA). The general POA signed the occupancy agreement, code status and service plan.

- Regulatory Insufficiency: The program does not consistently maintain a complete file for each tenant including a copy of guardianship, power of attorney or conservatorship or other documentation of a legal representative as necessary. (25.27 (1)l)

C. Service Plan – Program has an individualized service plan developed and updated for each tenant as required. [321 IAC 25.28]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently developing service plans prior to taking occupancy, within 30 days of occupancy, with a change in condition and annually.

Monitoring Observation: Tenant #6, #7, #11 and #13 were discharged.

Tenant #1's service plan, dated 6-4-07, was updated to reflect Ted Hose Daily on 7-3-07 and was again updated to reflect Hospice services on 7-6-07. The service plan was not signed by the nurse, two staff and the tenant's legal representative when it was updated.

Tenant #4 had two falls in two weeks on 7-28-07 and 7-31-07, according to incident reports. According to nurse's notes dated 7-31-07, the tenant had a cut on the back of his/her head as a result of a fall. The tenant was taken to the hospital and received staples. The service plan did not address the wound care for the tenant's head. The service plan was developed on 6-4-07 and was updated on 8-7-07 to reflect bed and chair alarms to be used at all times. The service plan was not signed by the nurse, two staff and the legal representative when it was updated.

Tenant #5's service plan was developed on 6-5-07 and was updated on 7-18-07 to reflect a chair alarm on at all times and assistance with ambulation or use of a wheelchair. The service plan was not signed by the nurse, two staff and the tenant's legal representative when it was updated.

Tenant #9's service plan indicated the tenant had two new orders for treatments to the tenant's groin, dated 7-17-07 and 7-25-07. The service plan was not signed by the nurse, two staff and the tenant's legal representative when it was updated.

Tenant #10's service was developed on 6-5-07 and was updated on 7-8-07 to add the use of a walker for pain in the back and knee. Nurse's notes dated 7-8-07 indicated the tenant's ambulation was unsteady and the tenant was instructed to use a walker. Nurse's notes dated 7-20-07 stated the tenant's ambulation was steady with a walker, the tenant could walk without the walker; however, the tenant indicated he/she was more confident with the walker. The service plan was not signed by a nurse, two staff and the tenant's legal representative when it was updated.

Tenant #12's service plan was updated on 6-4-07. According to a physician order dated 8-24-07, the tenant received Lorazepam, one mg tablet, 30 minutes prior to dressing changes or bathing, for anxiety. This was not reflected on the tenant's service plan. The tenant received wound care on his/her left hand, according to the Hospice nurse. The wound care was not included on the tenant's service plan.

Tenant #14's nurse's notes, dated 6-30-07, indicate the tenant's cognitive ability had decreased, the tenant was less aware of surroundings, wandered, got agitated more easily and slept more. The service plan was updated on 7-24-07 to reflect orders received to help with the tenant's agitation and wandering. The tenant had a UTI and was prescribed an antibiotic on 8-7-07. The service plan was updated on 8-7-07 to reflect routine two hour toileting and if wet to increase toileting to one hour. According to a physician's order dated 8-6-07, a low roughage diet was ordered. This was not reflected on the service plan. The service plan was not signed by the nurse, two staff and the tenant's legal representative when it was updated.

- Regulatory Insufficiency: The program did not consistently update service plans when the tenant had a change in condition. (25.28 (3))

- Regulatory Insufficiency: The program did not consistently obtain signatures from a health professional, two staff and the tenant or the tenant's legal representative when service plans were updated. (25.28 (3))

- Regulatory Insufficiency: The program did not consistently develop service plans for each tenant based on evaluations conducted in accordance with 25.23 (1) and 25.23 (2), and designed to meet the specific service needs of the individual tenant. (25.28 (1))

D. Medications – Program has a comprehensive written medication policy that allows tenant self-administration, but accommodates the need for tenant medication assistance via nurse delegation. The medication assistance is appropriately supervised and administered. Medications are appropriately stored. [231C.16A]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently following an acceptable medication protocol.

Monitoring Observation: According to staff interviews, there is no insulin being administered. Tenant #6, who had received insulin, was discharged on 7-18-07.

Staff interviews indicated staff comprehended the narcotic count process. There was a standard process designated by the nurse for counting narcotics.

According to monitor observation, Tenant #1's bubblepacks and Medication Administration Record (MAR) for Tylenol 500 mg were reconciled and documented appropriately.

Staff interviews indicated staff noted exceptions on the back of the MAR.

- Regulatory Insufficiency: None noted.

During the course of the investigation, the following information was obtained.

Four medication passes were observed. On 8-27-07 Staff #1 was observed passing medications. The staff touched her hair and did not re-sanitize her hands.

On 8-28-07 Staff #2 was observed passing medications. The staff did not wash her hands prior to administering medications to one tenant and the staff touched her nose and did not re-sanitize or wash her hands.

On 8-27-07 Staff #3 was observed passing medications. Staff approached Tenant #15 to administer medications. Staff held the medications in her hand and the tenant took one of the medications. The staff put the other two medications in an unmarked pill cup and placed it in the upper drawer of the medication cart. The tenant refused the medication twice and staff indicated she would approach the tenant a third time in the shift. The medication that was not administered to the tenant was Omeprazole 20 mg scheduled at 1200. According to the tenant's MAR, there were no initials for the medication on 8-27-07.

On 8-27-07 Staff #3 was observed passing medications. The staff administered medications to Tenant #8. The tenant had an order for Resource Liq Breeze drink one eight ounce box twice daily at 1200 and 1700. The tenant refused the Resource 45 times, at both 1200 and 1700, from 8-1-07 to 8-28-07. The order was still current on the MAR despite routine refusals by the tenant.

According to the DON, the Regional Nurse did teaching of the medication pass and she filled out the competency form, which requires the DON to do three medication passes with each staff before they administer medications. The DON had not seen the competency form. The DON had asked "good" medication passers to show new medication passers how to pass medications instead of the DON showing them the first few times. The DON would then observe and sign the form.

- Regulatory Insufficiency: The program did not consistently follow an acceptable medication protocol. (Iowa Administrative Code, Chapters 655-6)

E. Nurse Review - Program provides a registered nurse to ensure the appropriate administration and documentation of medications, ensure that physician orders are current, and assess and document the tenants' health related activities. [321 IAC 25.30]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently reviewing tenants' health status every 90 days for those tenants that received personal and or health related care.

Monitoring Observation: Eight tenant files were reviewed. Nurse review was not consistently completed as needed and every 90 days for Tenants #1, #4, #5, #9, #10, #12, and #14.

- Regulatory Insufficiency: The program does not consistently review tenants' health care every 90 days and as needed for those tenants that received personal and or health related care. (25.30 (3))

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently documenting physician orders with time, date and signature.

Monitoring Observation: Eight tenant files were reviewed. Physician orders were consistently documented with time, date and signature.

- Regulatory Insufficiency: None noted.

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently documenting physician orders.

Monitoring Observation: According to monitor observation Tenant #1's bubblepacks and MAR for Tylenol 500 mg were reconciled and documented appropriately.

- Regulatory Insufficiency: None noted.

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently providing nursing services in accordance with Iowa Code chapter 152 and 655-Chapter 6 to Tenants #9, #10 and #2.

Monitoring Observation: Tenant #9 had orders dated 7-17-07 and 7-25-07 for treatments to the tenant's groin. According to the tenant's as needed (PRN) medication sheet, the treatments were consistently provided. According to nurse's notes dated 8-15-07, the ointment was applied three to four times per day and the right groin area had improved. According to the notes, staff was making sure the tenant was clean, dry and ointment applied. The notes indicated the current treatment would be continued and monitored.

Tenant #10's nurse's notes indicated the tenant had loose stools and PRN Immodium was given. A nurse's note dated 7-24-07 indicated the PRN Immodium seemed to be effective. According to the PRN medication sheet, the Concentrated Milk of Magnesia was ordered give 10 ml by mouth as needed. The PRN medication sheet for August indicated there were no doses of the PRN Milk of Magnesia given.

Tenant #2 was discharged on 6-19-07.

Regulatory Insufficiency: None noted

F. Staffing - The provisions of this section address the program's staffing and training practices and associated documentation in responding to the identified needs of the tenant. [321 IAC 25.33]

During the course of the April 2007 investigation, the program received multiple regulatory insufficiencies related to: not having sufficiently trained staff in regard to alleged Dependent Adult Abuse (DAA), and the owner for not consistently ensuring that all personnel employed by or contracting with the program received training appropriate to assigned tasks and target population and not providing nursing services in accordance with Iowa Code chapter 152 and 655-Chapter 6.

Monitoring Observation: Tenants, #2, #3, #6 and #7, mentioned in regard to previous allegations of various DAA have been discharged. According to the ED and the DON, there have been no DAA investigations since the last complaint. According to the ED and the DON, there have not been any issues to report to DIA regarding DAA since the last complaint. According to staff interviews, there were no concerns related to DAA.

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently providing appropriate nurse delegated training.

Monitoring Observation: Nine employee files were reviewed related to training. Nine of nine employees had appropriate documented nurse delegated training.

- Regulatory Insufficiency: None noted.

During the course of the April 2007 investigation, the program received five regulatory insufficiencies related to not consistently providing sufficiently trained staff, available at all times, to full meet tenants' identified needs.

Monitoring Observation: According to family interviews, the turnover of staff has decreased. Family members stated there was sufficient staff. One family stated the ED was approachable. Family indicated the DON was doing a good job. According to staff interviews, the staffing was sufficient to meet the tenants' needs. The Hospice nurse indicated staff turnover had stabilized and she knew names of the staff.

Staff indicated no concerns with staff smoking and meeting tenants' needs. Family interviews indicated no concerns with staff smoking and meeting tenants' needs.

Tenant #11 was discharged on 6-19-07. Family interviews of other tenants' families indicated no concerns with bed linens being changed appropriately.

- Regulatory Insufficiency: None noted.

During the course of the April 2007 investigation, the program received two regulatory insufficiencies related to not consistently provide nursing services in accordance with Iowa Code chapter 152 and 655-Chapter 6.

Monitoring Observation: According to family interviews, staff turnover has decreased. Family members state there are sufficient staff. One family states the ED is approachable. Family indicates the DON is doing a good job. The Hospice nurse indicates staff turnover has stabilized and she knows the names of the staff.

- Regulatory Insufficiency: None noted.

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently meeting tenants' identified needs.

Monitoring Observation: Staff interviews indicated staff read service plans. Copies of the service plan were in the communication books and the DON kept original copies in the office.

- Regulatory Insufficiency: None noted.

G. Dementia-specific education for program personnel – A dementia-specific program shall employ or contract with personnel who have received appropriate dementia-specific education and training. [321 IAC 25.34]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently having sufficiently trained staff available at all times to fully meet tenants' identified needs.

Monitoring Observation: Eight employee files were reviewed related to dementia training. Eight of eight employees had documented dementia training. The Hospice nurse indicated dementia training practice was good and she stated there are excellent notes on how to approach Hospice tenants. The Hospice nurse indicated tenant care was individualized. Staff indicated in interviews how the dementia training they received was put into practice.

- Regulatory Insufficiency: None noted.

H. Life safety – The program shall follow written emergency policies and procedures and structural safety requirements. [321 IAC 25.37]

During the course of the April 2007 investigation, the program received two regulatory insufficiencies related to not consistently having a functioning alarm/personal response system and functioning fire doors.

Monitoring Observation: According to staff interviews, the door alarm system functions appropriately.

The alarm system was checked on 8-27-07 and 8-28-07. The monitors observed four exit doors when opened did not alert staff to the appropriate door. For example, on the west hall, the southwest exit door was opened and it alarmed; however, it showed on staff's pager as the southeast exit door was opened. The northwest exit door was opened and it alarmed; however, it showed on staff's pager as the northeast exit door was opened. This occurred on the east hall when observed on 8-27-07. The southeast exit door was opened and it alarmed; however, staff's pager showed the southwest exit door was opened. The northeast exit door was opened and it alarmed; however, staff's pager showed the northwest exit door was opened.

The front lobby was observed by the monitors on 8-27-07 and it alarmed and showed on staff's pager appropriately.

According to the DON, she reconfigured the doors by computer on 8-28-07. The monitors observed the same four doors as indicated above. When opened and alarmed, the doors showed appropriately on staff's pager.

On 8-28-07 the monitor observed staffs' pagers. Three of four staff carried pagers. The three pagers all read different times.

The monitor observed the lobby interior doors were not propped with objects.

- Regulatory Insufficiency: The program does not have a fully functioning door alarm system connected to each exit door. (25.37(2))

I. Record Checks – The program conducts applicable employee record checks. [Iowa Code section 135C.33(5)]

During the course of the April 2007 investigation, the program received a regulatory insufficiency related to not consistently completing appropriate background checks prior to employment.

Monitoring Observation: Eight employee files were reviewed. Eight of eight employee files had appropriate background checks completed prior to employment.

- Regulatory Insufficiency: None noted.

J. Other – The provisions of this section address the program's noncompliance with other applicable statutory and administrative rule requirements.

Complaint Allegation: The program received a regulatory insufficiency related to not consistently notifying DIA when potential harm occurred regarding tenants.

Monitoring Observation: According to the ED and the DON, there have been no DAA investigations since the last complaint. According to the ED and the DON, there have not been any issues to report to DIA regarding DAA since the last complaint.

- Regulatory Insufficiency: None noted.

During the course of the on-site revisit, a review of the plan of correction submitted on 6-6-07 in response to complaint #11491 was completed and it was determined the program did not fully implement the plan of correction.

Monitoring Observation: The program's plan of correction submitted 6-6-07, indicated the program planned to make corrections in the following areas: Evaluation of Tenant, Service Plan, Nurse Review and Life Safety. These corrections were not fully implemented. (26.2(6)a)

- Regulatory Insufficiency: The program did not fully implement the plan of correction submitted. (26.2(6)a)

Dated this 19th day of September, 2007.