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

Assisted Living Program: **Complaint Intake #: 11491R2**

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

Date of Investigation:

November 26, 27 & 28, 2007

Monitor(s):

Stephanie Cummins, SW MA
Ann Martin, RN
Michael Streepy, 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 visit was conducted at Legacy Gardens on November 26, 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:	21
Current number of tenants without cognitive disorder:	0
Total Population:	21

***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, Tenant Documents, 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, 12, 13 & 14, 2007. The April 19, 20, 23, 24 & 25, 2007 complaint investigation resulted in a fine of $5000.00, the issuance of a Conditional Certification through July 17, 2007, a directive to not admit any tenants while under the Conditional Certification and the requirement that the Nurse and Director attend management classes.

The June 11, 12, 13 & 14, 2007 complaint investigation resulted in a fine of $7,500.00, the issuance of a Conditional Certification through September 17, 2007, documentation that the Director and Nurse 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 completion of the Conditional Certification.

The August 27 - 28, 2007 revisit resulted in a fine of $10,000 dollars, an extension of the Conditional Certificate to continue no longer than May 17, 2008, a continuation of the restriction on admissions to an occupancy of 22 tenants, weekly updates submitted to DIA to include current staffing levels, 30 day nurse reviews and no new software implementation.

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)]

The program received a regulatory insufficiency at the time of the August 2007 investigation and revisit related to not consistently completing cognitive, health and functional evaluations as needed with a change in the tenant's condition.

Monitoring Observation: Tenant #1 expired on 11-5-07, Tenant #4 expired on 10-5-07, Tenant #9 was discharged on 11-5-07 and Tenant #12 expired on 10-8-07.

Ten tenant files were reviewed including four new admissions since the time of the August 2007 investigation and revisit. Evaluation issues were discovered in two of the four new files.

Tenant #5, an 81 year old, was admitted on 10-25-06 and diagnoses include: Alzheimer's Disease, Arthritis, Depression, Pain and Anxiety. The tenant was staged at a six to seven on the Global Deterioration Scale (GDS), which indicates severe to very severe cognitive decline. Cognitive, health and functional evaluations were completed appropriately.

Tenant #8, a 75 year old, was admitted on 12-21-05 and diagnoses include: Depression, Chronic Obstructive Pulmonary Disease (COPD), Right Cerebrovascular Accident (CVA), Seizures, Dementia, Hypertension (HTN) and a Broken Wrist. The tenant was staged at a four on the GDS, which indicated moderate cognitive decline. According to nurse's notes dated 9-15-07, the nurse was notified the tenant fell in the bathroom, the left wrist area was painful and the tenant was transferred to the Emergency Room (ER). The tenant returned to the program with a splint applied to the wrist. Cognitive, health and functional evaluations were completed on 9-15-07; however, the evaluations did not identify the splint.

Tenant #10, an 84 year old, was admitted on 3-27-07, and diagnoses include: Alzheimer's Disease, Anxiety, Constipation, Back Pain, Bipolar Disorder, Delusions, Vitamin Deficiency and Depression. The tenant was staged at four to five on the GDS, which indicates moderate to moderately severe cognitive decline. Cognitive, health and functional evaluations were completed appropriately.

Tenant #14, a 76 year old, was admitted on 9-9-05 and diagnoses include: Acid Reflux, Chest Pain, Dementia, HTN, Hyperlipidemia and Depression. The tenant is staged at a six on the GDS, which indicates severe cognitive decline. Staff #1 indicated the tenant chewed medications instead of swallowing medications. The tenant was observed eating paper, by a monitor, at the time of the medication pass on 11-26-07**.** Staff #2 indicated the tenant sometimes chewed medications instead of swallowing the medications; however, she had not seen the tenant chewing paper. Staff #2 indicated she had reported the chewing of medications to the Director of Nursing (DON). Cognitive, health and functional evaluations were not completed as needed.

Tenant #16, an 85 year old, was admitted on 10-11-07 and diagnoses include: Agitation, Cachexia, Congestive Heart Failure (CHF), Dementia, Depression, Atrial Fibrillation, Gout, Hyperlipidemia, Peptic Ulcer Disease and HTN. The tenant was staged at a five on the GDS, which indicates moderately severe cognitive decline. The nurses notes of 10-25-07 indicated the tenant was attempting to leave the building and showed abusive behavior by threatening to strike staff with his/her cane. Nurse's notes of 10-26-07 indicated the tenant was attempting to leave the building. Cognitive, Health and Functional evaluations were last completed 10-10-07 and were not completed, as needed, with a change in the tenant's condition.

Tenant #17, an 89 year old, was admitted 11-03-07, diagnoses included Atrial Fibrilation, Constipation, Cerebrovascular Accident, HTN, Hyperlipidemia, Mastectomy, left side and Venous Insufficiency. The tenant was staged at a five on the GDS, which indicates moderately severe cognitive decline. Progress notes beginning 11-05-07 through 11-19-07 document cares to be provided to the tenant's leg, eyes, cheek and ankle. Cognitive, health and functional evaluations were last completed 11-02-07 and 11-12-07 and were not completed as needed with a change in condition. None of the evaluations identified or addressed the changes regarding the skin conditions or eye medications. (On the second day of the investigation the program provided cognitive, health and functional evaluations dated 11-27-07.)

- 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]

The program received a regulatory insufficiency at the time of the August 2007 investigation and revisit related to not consistently maintaining a complete tenant file for each tenant including a copy of the guardianship, power of attorney, conservatorship or other documentation of a legal representative.

Monitoring Observation: Tenant #1 expired on 11-5-07.

Ten tenant files were reviewed and did not reveal any issues.

- Regulatory Insufficiency: None noted.

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

The program received a regulatory insufficiency at the time of the August 2007 investigation and revisit related to not consistently updating service plans as needed with a change in the tenant's condition. The program received a regulatory insufficiency related to not consistently obtaining signatures from a health professional, two staff and the tenant or the tenant's legal representative when service plans were updated. The program also received a regulatory insufficiency related to not consistently developing 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.

Monitoring Observation: Tenant #1 expired on 11-5-07, Tenant #4 expired on 10-5-07, Tenant #9 was discharged on 11-5-07 and Tenant #12 expired on 10-8-07.

Ten tenant files were reviewed including four new admissions since the time of the August 2007 investigation and revisit. Service plan issues were discovered in two of the four new admission tenant files.

Tenant #5's file indicated the service plan was updated as needed, signed appropriately and reflected the identified needs of the tenant. The service plan was completed in the timeframe specified in the plan of correction submitted.

Tenant #10's file indicated the service plan was updated as needed, signed appropriately and reflected the identified needs of the tenant.

Tenant #14 chewed medications instead of swallowing medications, according to Staff #1. The tenant was observed eating paper by a monitor during the medication pass on 11-26-07. Staff #2 indicated the tenant sometimes chewed medications instead of swallowing the medications; however, she had not seen the tenant chewing paper. Staff #2 indicated she had reported the chewing of medications to the DON. The service plan was not updated, as needed, and did not reflect the current and identified needs of the tenant.

Tenant #15 had a service plan updated on 11-13-07. The service plan was not signed by the tenant or the tenant's legal representative.

Tenant #16 was staged at a five on the GDS, which indicates moderately severe cognitive decline. The nurses notes of 10-25-07 indicated the tenant attempted to leave the building and exhibited abusive behavior by threatening to strike staff with his/her cane. The nurse's notes of 10-26-07 indicated the tenant attempted to leave the building. Nurses notes dated 11-03-07 documented the Tenant left the program and found his way to his former home after breaking a lock on a gate in the program courtyard. Nurse's notes of 11-03-07 indicated the Tenant was taken to the University of Iowa Hospital by police and admitted for a Psychiatric evaluation and returned to the program on11-19-07. The Tenant's service plan had not been updated with the change in condition related to the behaviors since admission 10-10-07 until return to the program on 11-19-07.

Tenant #17's progress notes beginning 11-05-07 through 11-19-07 document cares to be provided to the tenant's leg, eyes, cheek and ankle. Cognitive, health and functional evaluations were last completed 11-02-07 and 11-12-07 and were not completed as needed with a change in condition. None of the evaluations identified or addressed the changes regarding the skin conditions or eye medications. (On the second day of the investigation the program provided cognitive, health and functional evaluations dated 11-27-07.)

- 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]

The program received a regulatory insufficiency at the time of the August 2007 investigation and revisit related to not consistently following an acceptable medication protocol.

Monitoring Observation: Medications passes were observed on 11-26-07 and 11-27-07 and appropriate medication protocol was observed including appropriate sanitation.

Staff #2 and Staff #3 were interviewed and indicated appropriate protocol for refusals of medications.

Tenant #8's file indicated the order for Resource Liq Breeze drink, one eight ounce box twice daily, was discontinued on 9-6-07. A new order for Resource Liq Breeze, one box twice a day as needed, if not eating well, was obtained on 9-6-07.

Staff #2 and Staff #3 were interviewed and indicated nurse delegated tasks included instruction, demonstration, return demonstration and documentation with the nurse. RN delegation documents regarding treatments were obtained for Staff #1, Staff #2 and Staff #3. The documents indicated Staff #1, Staff #2 and Staff #3 had been observed and successfully completed the treatment and were signed by the DON.

- Regulatory Insufficiency: None noted.

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]

The program received a regulatory insufficiency at the time of the August 2007 investigation/revisit related to not consistently reviewing tenants' health status every 90 days and as needed for those tenants that received personal and or health related care.

Monitoring Observation: Tenant #1 expired on 11-5-07, Tenant #4 expired on 10-5-07, Tenant #9 was discharged on 11-5-07 and Tenant #12 expired on 10-8-07.

Ten tenant files were reviewed including four new admissions since the time of the August 2007 investigation and revisit. Nurse review issues were discovered in two of the four new admission tenant files.

Tenant #5 and #10 had nurse review completed appropriately.

Nurse review was not consistently completed as needed for Tenants #14, #16 and #17.

Tenant #14 had an order dated 10-4-07 to obtain a Urinary Analysis (UA) for a possible Urinary Tract Infection (UTI). A nurse review was not completed at the time of the order; however a nurse review was completed on 11-27-07, on the second day of the investigation and revisit. The nurse review dated 11-27-07 indicated an order had been received on 10-4-07 to collect a urine specimen for a possible UTI. Lab reports received 10-6-07 revealed no UTI. Nurse review was not completed as needed.

Tenant #16 was staged at a five on the GDS, which indicated moderately severe cognitive decline. The nurse's notes of 10-25-07 indicated the tenant had attempted to leave the building and exhibited abusive behavior by threatening to strike staff with his/her cane. The nurse's notes of 10-26-07 indicated the tenant had attempted to leave the building. Nurse review was not completed for either incident.

Tenant #17's progress notes beginning 11-05-07 through 11-19-07 document cares to be provided to the tenant's leg, eyes, cheek and ankle. Cognitive, health and functional evaluations were last completed 11-02-07 and 11-12-07 and were not completed as needed with a change in condition. None of the evaluations identified or addressed the changes regarding the skin conditions or eye medications. (On the second day of the investigation the program provided cognitive, health and functional evaluations dated 11-27-07.)

- Regulatory Insufficiency: The program does not consistently assess and document the health status of each tenant that receives personal and health related care and make recommendations and referrals as appropriate, and monitor programs on previous recommendations, at least every 90 days, or if there are changes in health status. (25.30(3))

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 November 2007 investigation and revisit, the following information was obtained.

Monitoring Observation: Incident reports were reviewed from the time of the August 2007 investigation and revisit to the time of the November 2007 investigation and revisit. There were 20 incident reports, four of which had nurse signatures on the "Assessment Performed by" line. Of the remaining 16 incident reports, one of them had the time a nurse was notified. Tenant #15 was found on the floor on 11-18-07 at 0210. The incident report dated 11-18-07 stated (under Legs/Hips) painful and limping on left leg, under Weight Bearing it stated, very little on left leg. The incident report indicated a nurse was notified; however, a time was not provided. The incident report indicated at 0530 the tenant was still in pain, struggled to get up and go to the bathroom and the tenant was helped to stand and pivot. The tenant was able to move and bend the leg up to the knee. As needed (PRN) Tramadol was administered at 0530, according to the incident

report. According to nurse's notes dated 11-18-07 at 0830, the tenant fell earlier and complained of pain in the right hip/leg. The tenant had a facial grimace and said "Ouch" when the right leg was checked. The family was notified and an ambulance was called. Nurse's notes dated 11-18-07 at 1150, indicate the hospital called and the tenant had a fractured right hip and required surgery. A six hour delay occurred from the time the tenant was found on the floor to the time of the nurse evaluation.

- Regulatory Insufficiency: The program did not consistently have sufficient trained staff available at all times to fully meet the tenant's identified needs. (25.33(1))

During the course of the November 2007 investigation and revisit the following information was obtained.

Monitoring Observation: The following information was from the August 27 & 28, 2007 investigation and revisit report in regard to Tenant #14.

According to nurse's notes dated 6-30-07, 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 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. Evaluations were not completed as needed with a change. The service plan was not signed by the nurse, two staff and the tenant's legal representative as changes occurred. Nurse review was not completed as needed.

Tenant #14's file was reviewed at the time of the current investigation and revisit. Evaluations completed on 8-7-07 and 8-14-07 were in the tenant's file. The evaluations were signed, dated and timed retrospectively. Service plans dated 8-7-07 and 8-14-07 were in the tenant's file. The service plans were signed and dated retrospectively by three staff. The tenant's DPOA signed the service plans dated 8-7-07 and 8-14-07 on 10-24-07. Nurse review forms were found in the tenant's file dated 8-7-07 and 8-14-07. The nurse review forms were signed, dated and timed, retrospectively. Nurse's notes indicated an 8-28-07 a note was changed to reflect the date of 8-14-07 and "error" was noted. According to the Corporate Regional RN, the documents including evaluations, service plans, nurse review and nurses notes dated 8-7-07 and 8-14-07 were backdated. The Corporate Regional RN indicated the documents were backdated to correct issues identified at the time of the August 2007 investigation and revisit. According to the Corporate Regional RN, this tenant file was the only file that was backdated.

- Regulatory Insufficiency: The program did not consistently provide nursing services in accordance with Iowa Code chapter 152 and-Chapter 6. (25.33(6))

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

The program received a regulatory insufficiency at the time of the August 2007 investigation and revisit related to not consistently having a functioning alarm system connected to each exit door.

Monitoring Observation: Interviews with Staff #2 and Staff #3 indicated there had been no problems or issues with the exit doors and the alarms and lights. Staff #2 and Staff #3 indicated they carried pagers. The first check of the doors and alarms occurred on 11-26-07 at 1430. The northwest exterior door to the enclosed courtyard had a green light indicator. The southeast exterior door to the enclosed courtyard had a green light indicator. The DON indicated a tenant had just come in from smoking from the west side and stated the door had been unalarmed for no more than three minutes. The DON indicated a tenant had just come in from walking in the courtyard on the east side and stated the door had been unalarmed for no more than two to three minutes. The remaining exterior doors were checked at 1430 on 11-26-07 and the red light indicators were on. One pager that was used in the door/alarm check on 11-26-07 at 1430 was off by one hour. For example, the northeast exterior door was set off at 1445 and the pager showed 1545. Additional checks of the doors/alarms were conducted on 11-27-07 at 0920, 1400 and 1535. At the additional checks all exterior doors were checked and the red alarms indicators were on.

- Regulatory Insufficiency: None noted.

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

During the course of the November 2007 on-site revisit, a review of the Plan of Correction submitted on 11-13-07 in response to Complaint Revisit #11491R 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 on 11-13-07, indicated the program planned to make corrections in the following areas: Evaluation of Tenant, Service Plan and Nurse Review. 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 22nd day of February, 2008.