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

Assisted Living Program:

Complaint Intake #: 11919R3
12260R3
12271R3

Jim Hunter, Executive Director
Legacy Gardens
15 Silvercrest Place
Iowa City, IA 52240-2951

Date of Investigation:

March 4 & 5, 2008

Monitor(s):

Hal Chase, RN BSN MPH
Stephanie Cummins, SW MA
Ann Martin, 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 March 4 & 5, 2008. 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:	15
Current number of tenants without cognitive disorder:	0
Total Population:	**15**

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

Accreditation Status – Not applicable.

Program 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.

The November 26-28, 2007 revisit resulted in a fine of $10,000.00 dollars, an extension of the Conditional Certificate to continue no longer than May 17, 2008, a restriction of no more than 22 tenants in the program, weekly updates to the DIA that will include current staffing levels, 30 day nurse reviews, specific documentation of PRN nurse reviews and a restriction on implementing the new software system.

The February 11-12, 2008 complaint resulted in a fine of ten thousand ($10,000.00) dollars, an extension of the Conditional Certificate to continue no longer than May 17, 2008, and a restriction on admissions, The program is also required to continue with weekly updates to the DIA that will include current staffing levels, 30 day nurse reviews, specific documentation of PRN nurse reviews with tenant names protected and they will need to have the Director of Nursing (DON) complete weekly Medication Administration Record (MAR) reviews. The new software system, in regard to MARs only, may be implemented at this time.

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 had received a regulatory insufficiency at the time of the November 2007 revisit regarding Tenants #6, #15, #16 and #17 related to not consistently completing cognitive, health and functional evaluations, as needed with a change in the tenant's condition.

Monitoring Observation: Five tenant files were reviewed. Tenant #16 was discharged on 1-27-08. Evaluations were completed appropriately for Tenant #6 and Tenant #15.

Tenant #17, a 90 year old, was admitted on 11-3-07 and diagnoses include: Atrial Fibrillation, Cerebrovascular Accident (CVA), Hypertension (HTN), Constipation, History of Left Mastectomy, Hyperlipidemia and Venous Insufficiency. A cognitive evaluation was completed on 1-17-08, staging the tenant at a five on the GDS, indicating moderately severe cognitive decline. Nurse's notes of 1-17-08 indicated a functional and health evaluation was completed along with a nurse review. Nurse's notes of 1-21-08 through 3-4-08, indicated numerous physician orders including for; bilateral lower extremity wound care, dietary changes, oral antibiotics, anti-coagulant therapy, topical ointments and wound care from an outside clinic.

- Regulatory Insufficiency: The program did not complete an evaluation of each tenant's functional, cognitive and health status within 30 days of occupancy and as needed, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any modifications to needed services. The evaluation shall be conducted by a health care professional or a human service professional. (25.23(2))

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

The program had received regulatory insufficiencies at the time of the November 2007 revisit regarding Tenants #6, #14, #16 and #17 related to: not consistently updating a service plan when the tenant had a change in condition, not consistently obtaining signatures from a health professional, two staff and the tenant or the tenant's legal representative when service plans were updated and 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.

Monitoring Observation: Five tenant files were reviewed. Tenant #16 was discharged on 1-27-08. The service plans was appropriate for Tenant #6.

Tenant #14, a 90 year old, was admitted on 3-22-05 and diagnoses include: Acid Reflux, Alzheimer's Disease, Anxiety, HTN and Status Post Fractured Hip. The tenant was staged at a six on the Global Deterioration Scale dated 2-15-08, which indicated severe cognitive impairment. The tenant's service plan was updated on 2-15-08. The service plan was not signed by the tenant or the tenant's legal representative.

Tenant #17's service plan of 1-17-08 indicated the service plan was updated, with evaluations on 2-1-08 and indicated wound treatments were discontinued. The service plan indicated the tenant received physical therapy two to three times weekly for strengthening and gait training and was independent with ambulation but used a walker. Nurse's notes of 1-21-08 through 3-4-08 indicated numerous physician orders for bilateral lower extremity wound care, dietary changes, oral antibiotics, anti-coagulant therapy, and topical ointments, in addition to receiving wound care from an outside wound care clinic. February 2008 Medication Administration Record (MAR) indicated the tenant was receiving wound care from an outside provider. Nurse's notes of 1-31-08 indicated physical therapy was discontinued on 1-4-08. Nurse's notes of 2-11-08 indicated the tenant thought he/she had fallen out of bed and hurt his/her back. The RN instructed the tenant to use the call light when requiring assistance. The service plan was not individualized in order to meet the tenant's needs.

- Regulatory Insufficiency: The program did not develop a service plan that was based on the 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))

- Regulatory Insufficiency: The program did not develop a service plan by a health care professional or human service professional in consultation with the tenant and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. (25.28(2))

- Regulatory Insufficiency: The program did not individualize and indicate, at a minimum, the tenant's identified needs, the tenant's requests for assistance, expected outcomes and services provider(s) if other than the program. (25.28 (4))

C. 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 investigation, the following information was obtained.

Monitoring Observation On 3-4-08 a monitor observed staff trained in medication administration, administer medications to tenants. Staff #1 was observed leaving the medication cart unlocked and unattended when administering medications. Medication bottles filled with prescribed medications were left on top of the medication cart and not locked in the medication cart while staff administered medications.

According to the program nurse's statement, on 1-28-08 the Corporate Regional RN had a conversation with Tenant #18's physician and received orders for Cipro for five days for a Urinary Tract Infection (UTI). The physician's office indicated they would call the pharmacy with the order. The program nurse checked the MARs on 1-31-08 and discovered the Cipro had not been delivered. The pharmacy indicated they did not have the order for Cipro. The physician's office indicated they had previously called in the order and would call again with the order. The pharmacy delivered the medication and the program nurse wrote the medication on the MAR with the information from the bubble pack. The nurse stated it was her impression the Corporate Regional RN had taken the original order. The order was faxed to program on 3-5-08 at 1708. The MAR

for January 2008 indicated the order was put on the MAR on 1-31-08. The MAR was initialed on 1-1-08 and was not initialed on 1-31-08.

Tenant #15, a 76 year old, was admitted on 12-21-05 and diagnoses include: Acid Reflux, Alzheimer's Disease, Anxiety, Constipation, Cough, Diarrhea, Pain, Rash, Shortness of Breath and a Vitamin Deficiency. A physician's order of 2-8-08 indicated an order for Amoxicillin, 500 mg, given three times daily. A Medication Administration Record (MAR) for February, 2008 indicated this order was transcribed on 2-8-08 and read Amoxicillin, 500 mg, one tablet three times daily times twenty-one doses. The order began 2-8-08 at 5:00 p.m. and ended 2-11-08, with nine doses given. Amoxicillin was written again, date unknown, for 500 mg, three times daily, for fourteen doses. The order began on 10-11-08 at 10:00 pm. and ended on 2-15-08 at 4:00 p.m., with twelve doses given. The second order was not an order given by the physician. The program RN stated she had re-written the order but did not give an explanation for writing the order without having a physician's order.

Tenant #17's MAR for February, 2008, indicated a physician's order was transcribed on 2-3-08 for Cephalexin, 500 mg by mouth, three times daily for seven days. A physician's order for this medication was in the tenant's file. On 2-5-08 the program discontinued the above order but a physician's order discontinuing the medication was not in the tenant's file. The program wrote the order again but changed the number of doses and the frequency the medication was to be given. A physician's order for the new order of Cephalexin was not in the tenant's file. The order was transcribed to the MAR for Cephalexin, 500 mg by mouth, three times daily for fifteen days. Dosing of the first order started on 2-3-08 and finished on 2-5-08 with a total of seven doses given. The second order started on 2-5-08 and finished on 2-19-08. One dose was not given, as the tenant was out of the building, and the two doses scheduled for 2-20-08 were not given, therefore, a total of 42 doses were given and not 45 doses, as written. The program did not have a physician's order discontinuing the first order, did not have a physician's order for the second order and did not give 45 doses as written.

Tenant #18 had an order dated 12-28-07 for a bed and chair alarm. The tenant's January, 2008 MAR, stated to start with the bed and chair alarm on 1-19-08 and it was not initialed on 1-24-08 and 1-25-08 for the 3-11 shift.

- Regulatory Insufficiency: The administration of medications shall be provided by an Iowa–licensed registered nurse or advanced registered nurse practitioner registered in Iowa or the authorized agent in accordance with 655—subrule 6.2(5) and 655—subrule 6.3(1) and Iowa Code chapter 155A and in executing the medical regimen as prescribed by the physician, the registered nurse shall exercise professional judgment in accordance with minimum standards of nursing practice as defined in these rules. (IAC 655-6.2(5)e(152)) (25.29(2)a)

D. 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 had received a regulatory insufficiency at the time of November revisit regarding Tenants #6, #16 and #17 related to not consistently assessing and documenting the health status of each tenant that receives personal and health related care and making

recommendations and referrals as appropriate, and monitoring programs on previous recommendations, at least every 90 days, or if there are changes in health status.

Monitoring Observation: Five tenant files were reviewed. Tenant #16 was discharged on 1-27-08. Nurse review was completed appropriately for Tenant #6 and #17.

- Regulatory Insufficiency: None noted.

E. 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]

The program had received a regulatory at the time of November 2007 revisit related to not consistently having sufficient trained staff available at all times.

Monitoring Observation: Incident reports were reviewed from the time of the November 2007 revisit to the time of the March 2008 revisit. There were 19 incident reports. Of the 19 reports, 9 reports had an aide's name, and not the RN, on the "Assessment performed by" line, 6 reports did not have RN follow up as noted with a signature on the back of the form and 7 of the incident reports did not have RN notification documented.

- Regulatory Insufficiency: The program did not consistently have sufficient trained staff available at all times. (25.33 (1))

The program had received a regulatory insufficiency at the time of November 2007 revisit related to not consistently providing nursing services in accordance with Iowa Code Chapter 152 and Chapter 6, including backdating documents.

Monitoring Observation: According to a statement dated 3-5-08, from the Corporate Regional RN, she had not seen any backdating of documents. Five tenant files that were reviewed indicated documents were not backdated. Tenant #6 had nurse reviews, evaluations and service plan updates completed appropriately.

- Regulatory Insufficiency: None noted.

F. Structural requirements – The structure of the program shall be designed and operated to meet the needs of the tenants. The buildings and grounds shall be well-maintained, clean, safe and sanitary.

During the course of the March 2008 on-site revisit, the following information was obtained.

Monitoring Observation: On 3-4-08 at 12:40 p.m. a monitor checked the mechanical room, bathing rooms and storage rooms. The monitor found a storage room unlocked and asked the program to lock the door. The housekeeper confirmed the door was unlocked. The monitor took pictures inside the storage room, which included chemicals and housekeeping supplies. On 3-5-08 the mechanical, storage and bathing rooms were checked at 9:15 a.m. and 3:45 p.m. and all doors were locked appropriately. According to a Quality Assurance document, a store room style lock, which is locked at all times,

was installed and the maintenance director adjusted the door hinges to ensure the door shut faster.

- Regulatory Insufficiency: The program did not consistently provide buildings and grounds that are well-maintained, clean, safe and sanitary. (25.40(1)(b)

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

During the course of the March 2008 on-site revisit, a review of the Plan of Correction submitted on 2-8-08 in response to Complaint Revisit # 11919R2, #12260R2 and #12271R2 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 2-8-08, indicated the program planned to make corrections in the following areas: Evaluation of Tenant, Service Plan and Staffing. 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 7th day of April, 2008.