IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED

Complaint Intake #: 41577-CR1
41700-CR1

May 13, 2013

Ms. Shirley Givant, LPN Administrator/Owner
Country Haven Guest Homes, LTD
2490 Prairie View Avenue
Winterset, IA 50273

RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY - FINAL REVISIT TO COMPLAINT/INCIDENT INVESTIGATION REPORT
II. Sanction – Conditional Operation
III. Appeals/Hearings
IV. Reduction of Civil Penalty
V. Conclusion

Dear Ms. Givant:

I. Final Revisit to Complaint/Incident Investigation Report – Country Haven Guest Homes, LTD (Program), Winterset, IA

Enclosed is the **Final Revisit to Complaint/Incident Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapters 481—67 and 481—69 following an investigation by DIA on April 16, 2013. The Report notes Regulatory Insufficiencies in the area(s) of: Medications, Staffing, Evaluation, Nurse Review, Food Services and Noncompliance with Plan of Correction.

Country Haven Guest Homes, LTD (Program) is being assessed a **$2,000 civil penalty** pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2). Pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC rule 67.12(3)(a)(2), the continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety or security of tenants may result in a civil penalty of up to $5000.

The factors to be considered in determining the amount of a civil penalty are contained within rule 481 IAC 67.12(3)(b) and include:

(1) the frequency and length of time the regulatory insufficiency occurred;
(2) the past history of the program as it relates to the nature of the regulatory insufficiency;
(3) the culpability of the program as it relates to the reasons the regulatory insufficiency occurred;
(4) the extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;
(5) the relationship of the regulatory insufficiency to any other types of regulatory insufficiencies;
(6) the actions of the programs after the occurrence of the regulatory insufficiency;
(7) the accuracy and extent of records kept by the program which relate to the regulatory insufficiency and the availability of such records to DIA;
(8) the rights of tenants to make informed decisions; and
(9) whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

The Report reflects that the Program failed to comply with regulatory requirements which have been cited previously by the Department. The Program previously received Regulatory Insufficiencies in the areas of Medications, Staffing, Evaluations, Nurse Review and Food Service.

The determination of a **$2,000 civil penalty** is based upon Regulatory Insufficiencies in the area(s) of Medications, Staffing, Evaluations, Nurse Review, Food Services and Noncompliance with Plan of Correction. As the enclosed Report details, the Program failed to delegate personal and health related care to staff and failed to train staff regarding safe food handling. The Program failed to conduct nurse reviews and evaluations with significant change in tenants' condition. The Program failed to administer medications as ordered by a physician.

II. Sanction – Conditional Operation

As reflected in the Preliminary Report, the Program failed to comprehensively follow the regulations in IAC chapters 481—67 and 481—69. Due to the Program's noncompliance, current Regulatory Insufficiencies, and the findings of the on-site monitoring visit of April 16, 2013, the Program will remain under a Conditional Certificate, effective December 11, 2012.

The previous sanction(s) associated with the Conditional Certificate that remain in effect include: No new admissions, Proof of nurse delegation completed within 30 days for all new staff until such time as the restriction and/or Conditional Certificate is lifted by the Department. Proof of nurse delegation completed within 30 days for all staff to be submitted to the Department. Documentation of nurse review every month by RN on all tenants.

III. Appeals/Hearings

The Program may appeal the DIA decision in accordance with IAC rule 481—67.13 within thirty (30) days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481—10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of notice.

IV. Civil Penalty

If, within 30 days of the receipt of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) pay the civil penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to IAC rule 481–67.12(3)d. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send a cover letter to the attention of **Rose Boccella** and remit the civil penalty assessed by check or money order to the State of Iowa in the amount of two thousand dollars ($2,000) within 30 business days after the receipt of this demand letter.

V. Conclusion

The Program is being assessed a $2,000 civil penalty pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2). The Plan of Correction (POC) submitted on May 10, 2013, has been reviewed and will constitute the final POC related to the on-site visit of April 16, 2013.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal the final findings, the Program may do so within 30 days of this letter.

If you have any questions in regard to this letter and enclosed Report, please contact your Program Coordinator, Rose Boccella, at 515/281-7039.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Assisted Living Program
Final Complaint/Incident Revisit Investigation Report

Assisted Living Program:

Shirley Givant, Administrator/Owner
Country Haven Guest Home
2490 Prairie View Ave.
Winterset, IA 50273

Complaint/Incident Intake #: 41577-CR1
41700-CRI

Date of Complaint/Incident Investigation:

April 16, 2013

Monitor(s):

Hal L. Chase, RN BSN MPH

Definitions: ***The following definitions are relevant:***

Assisted Living Program – A program certified under 481 IAC 69 that provides housing with contracted services to three or more tenants in a physical structure that provides a homelike environment. Services may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living. A General Population Program is an Assisted Living Program that is not dementia-specific but may have tenants with cognitive disorder.

Dementia-Specific Assisted Living Program - An assisted living program certified under 481 IAC 69 that serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale (GDS), or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS, or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Regulatory Insufficiency - A violation of a statutory or rule provision within the Code of Iowa (2011) or the 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 statutory or rule violations. The plan should identify how and by what date each regulatory insufficiency will be corrected, and what measures will be taken to ensure the problem does not recur. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint/Incident Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Overview: *In preparing this report, the following information was considered:*

Current Program Census

Assisted Living Programs are defined by the type of population served. The census numbers below were provided by the Program at the time of the on-site visit.

General Population Program	
Number of tenants without cognitive disorder:	7
Number of tenants with cognitive disorder:	1
Total Population of Program at time of on-site	8
TOTAL census of Assisted Living Program	8

Program History – The program received regulatory insufficiencies in the areas of: Evaluation, Service Plan, Staffing, Non Reporting to the Department, Food Service and Program Initiated Involuntary Transfer during the March 6, 2012 Recertification visit. The program received a regulatory insufficiency in the area of Tenant Rights during the October 8, 2012, Complaint Investigation (40998-I). During the November 2012 Complaint Investigation (41577-C, 41700-C), the program received regulatory insufficiencies in the areas of: Program Reporting to the Dept., Medications, Staffing, Evaluations, Structural, Tenant Documents, Nurse Review and Food Service.

Complaint/Incident Investigation – The Complaint/Incident investigator(s) made the observations detailed in the following areas:

A. Program Reporting to the Department

During the onsite complaint investigation #41577-C and #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not reporting Tenant #1's suicide attempt to the Department.

- Monitoring Observation: Tenant #1 no longer resides at the Program. A review of Tenants #3, #4, #5, #8, #9, #10, #11 and #12 files indicated no incidents occurred requiring the Program to notify the Department.

- Regulatory Insufficiency: None noted.

B. Medications

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not keeping medications in a locked place or container, for not maintaining a list of medications and for not administering medications in accordance with 655-Chapter 6 governing nurse delegation. Medication Administration records (MARs) were inappropriately charted by staff who had administered medications to Tenants #3, #4, #5, #6 and #8.

- Monitoring Observation: A monitor inspected the medication cabinet and key locks and determined medications stored inside were secured and unable to be opened

without a key. The key to the medication cabinet was in staff's possession at all times.

The Registered Nurse (RN) was interviewed and reported she and Staff #1, a certified medication assistant (CMA) and the new Administrator of the Program, were the only two who prepared weekly medication planners. Staff #1/Administrator's personnel file indicated she received nurse delegated training and demonstrated competency in setting up medications on 12-17-12.

Tenant #6 no longer resides at the Program. A review of MARs for Tenants #3, #4, #5, and Tenant's #9 through #12 were reviewed and indicated medications were administered and initialed by staff who administered medications. MAR's included a signature key, which identified a staff person's initials

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

Tenant #8, an 89 year old, was admitted on 4-30-12 and had diagnoses of: Confusion, Bilateral Edema, Atrial Fibrillation and a History of Falls. A Short Portable Mental Status Questionnaire (SPMSQ) was completed on 12-28-12, which indicated intact intellectual function.

A welfare check completed by a monitor on 4-11-13 reviewed staff communication records of 4-8-13 and noted a urinalysis (UA) had been ordered for Tenant #8. Staff communication records of the same date but separate entry indicated a urine sample would be picked up the next morning. Tenant #8's file found no documentation of a physician order for a UA. There was no record of a UA or suspected Urinary Tract Infection.

The LPN/Owner arrived at the Program after a monitor requested she come to theProgram to discuss Tenant #8's health status. The LPN/Owner reviewed Tenant #8's file and confirmed what the monitor had found. The LPN/Owner looked through a folder that had been placed in the office and found UA results and an order for Bactrim DS (an antibiotic (ATB) – one tablet twice daily for seven days dated 4-10-13. A review of MARs indicated the ATB had not been given. The LPN/Administrator reported she would have the prescription filled and administered to Tenant #8 that evening.

During the onsite visit of 4-16-13, Tenant #8's MARs for April, 2013 indicated ATB medication was administered for the first time at 5:00 p.m. on 4-11-13. The Program did not administer ATB medication as ordered by the physician.

- Regulatory Insufficiency: When medications are administered traditionally by the program, the administration of medications shall be provided by a registered nurse, a licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by unlicensed personnel in accordance with requirements in 655-Chapter 6 governing nurse delegation. (IAC r. 481-67.5(6) a)

C. Staffing

During the onsite complaint investigation #41577-C and #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not having have physician orders for Tenant #4's sterile dressing changes and emptying of a Jackson Pratt siphon.

Tenant #6 needed to use a mechanical lift for transfer and two staff was required to operate the lift and only one staff operated the lift.

The LPN/Administrator served as an attorney-in-fact, guardian, conservator or representative payee for Tenant #7.
The RN did not complete nurse delegation training and staff's demonstration of competency of personal and health-related cares. The RN did not complete six hours of training related to Iowa rules and laws on assisted living.

- Monitoring Observation: Tenants #6 and #7 no longer reside at the Program. Staff #2 & #3 were no longer employed by the Program.

  Tenant #4, an 88 year old, was admitted to the program on 1-16-10 with diagnoses of: Stroke, Arthritis, Hypertension, and a History of Urinary Tract Infections. A SPMSQ was completed on 12-28-12 indicated intact intellectual function.

  A physician order of 2-15-13 outlined the procedure and frequency of providing sterile dressing changes and chest tube/shunt drainage.

  The RN reported Staff #1, #5 and #6 had been trained and each had demonstrated competency to perform Tenant #4's chest tube/shunt draining procedure and sterile dressing changes. Staff #1, #5, and 6's training files indicated the RN completed nurse delegation training and demonstrated competency on sterile dressing changes of chest wound, procedures for chest tube/shunt draining, medication administration, accu-checks, and Insulin injections.

  Staff #1, #4, #5, #6 and #7's training files indicated the RN had not completed nurse delegated training of activities of daily living (ADLs.) (Program documentation revealed the RN completed six hours of training related to Iowa rules and laws on assisted living in April, 2012.)

- Regulatory Insufficiency: A sufficient number of trained staff shall be available at all times to fully meet tenants' identified needs. (IAC r. 481-67.9(1))

D. Evaluations

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not completing functional, cognitive and health evaluations with a significant change for Tenants #4, #5 and #6.

- Monitoring Observation: Tenant #6 no longer resides at the Program.

  Tenant #4's functional and health evaluations were completed on 12-28-12 and reflected wound care and chest tube/shunt draining procedures. A monthly nurse review of 1-29-13 indicated Tenant #4 had: worsening health issues including

shortness of breath and increased difficulty moving self in a wheel chair, more intense monitoring of Tenant #4's respiratory status and constant monitoring of reflex, increased secretions and continued care at the insertion site of the chest tube. The Program did not complete evaluations with a significant change.

A nurse review of 2-28-13 indicated Tenant #4's condition improved from the previous month. Tenant #4 no longer required a higher level of care. Medications and treatments started in January had a positive effect on Tenant #4's condition. Tenant #4 was no longer short of breath and moved self about in a wheelchair without difficulty. Chest tube drainage decreased and additional wound care was discontinued.

Staff communication records and nurse's notes of 3-23-13 indicated Tenant #4 had a "seizure like" incident. Tenant #4 was transported to a hospital emergency room for evaluation and returned later that evening. Hospital records indicated Tenant #4 was dehydrated which may have caused the incident. No other incidents related to seizures were noted.

Nurse's notes of 3-28-13 indicated the LPN/Administrator noted a quarter-inch yellow area with brown discharged was noted adjacent to where the chest tube exited Tenant #4's chest. On 3-29-13 Tenant #4 was seen by his/her physician and ATB therapy. On 4-1-13 the RN requested additional wound care instructions. On 4-3-13 Tenant #4's physician ordered specific instructions for wound care around the chest tube insertion site. The Program did not complete evaluations with a significant change in status.

Tenant #5, a 94 year old, was admitted to the program on 8-10-11 with the diagnoses of: Chronic Obstructive Pulmonary Disease, Gout, Atrial Fibrillation and Benign Prostatic Hypertrophy. A SPMSQ was completed on 12-28-13, indicated intact intellectual function. Functional and health evaluations were completed on 12-28-13. Staff communication records and Tenant #5's nurse's notes indicated no significant change in status which would have warranted evaluations.

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

A welfare check completed by a monitor on 4-11-13 reviewed staff communication records of 4-8-13 and noted a UA had been ordered for Tenant #8. Staff communication records of the same date but separate entry indicated a urine sample would be picked up the next morning. A review of Tenant #8's file found no documentation of a physician order for a UA and an order for ATB therapy. Evaluations had not been done with a significant change in status.

The LPN/Owner arrived at the Program after a monitor requested she come to Program to discuss Tenant #8's health status. The LPN/Owner reviewed Tenant #8's file and confirmed what the monitor had found. The LPN/Owner looked through a folder that had been placed in the office and found UA results and an order for ATB therapy – one tablet twice daily for seven days dated 4-10-13.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall evaluate

each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation with the tenant has not exhibited a significant change. (IAC r. 481-69.22(2))

E. Structural

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not meeting all the structural requirements as required in administrative rules promulgated by the state fire marshal.

- Monitoring Observation: The State Fire Marshall reported to the Department that all structural issues had been resolved.

- Regulatory Insufficiency: None noted.

F. Tenant Documents

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not maintaining and retaining Tenant #4's and #7's documentation and records for a minimum of three years.

- Monitoring Observation: Tenant #7 no long resides at the Program.

  Tenant #4's file indicated a physician order of 2-15-13 outlined the procedure and frequency of providing sterile dressing changes and chest tube/shunt drainage. MARs for March, 2013 indicated wound care was completed as ordered. Nurse's notes of 3-28-13 indicated the LPN/Administrator noted a quarter-inch yellow area with brown discharged was noted adjacent to where the chest tube exited Tenant #4's chest. On 3-29-13 Tenant #4 was seen by his/her physician and ATB therapy. On 4-1-13 the RN requested additional wound care instructions. On 4-3-13 Tenant #4's physician ordered specific instructions for wound care around the chest tube insertion site. MARs for April, 2013 indicated additional wound care was completed as ordered. Nurse's notes of 4-10-13 indicated improvement of skin around the chest tube insertion site.

- Regulatory Insufficiency: None noted.

G. Nurse Review

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not completing nurse reviews for Tenants #4 and #5.

Monitoring Observation: Tenant #4's file indicated the RN completed monthly nurse reviews on 1-29-13 and 2-28-13 respectively. The nurse review of 1-29-13 indicated Tenant #4 had worsening health issues; shortness of breath and increased difficulty

moving self in a wheel chair was noted. More intense monitoring of Tenant #4's respiratory status and constant monitoring of reflex, increased secretions and continued care at the insertion site of the chest tube.

A monthly nurse review of 2-28-13 indicated Tenant #4's condition had improved from the previous month. Tenant #4 no longer required a higher level of care. Medications and treatments started in January had a positive effect on Tenant #4's condition. Tenant #4 was no longer short of breath and moved self about in a wheelchair without difficulty. Chest tube drainage decreased and additional wound care was discontinued.

Staff communication records and nurse's notes of 3-23-13 indicated Tenant #4 had a "seizure like" incident and was transported to a hospital emergency room for evaluation, returning later that evening. Hospital records indicated Tenant #4 was dehydrated which may have caused the incident. No other incidents related to seizures were noted. Nurse's notes of 3-23-13 indicated the LPN/Administrator evaluated and assessed Tenant #4's health status.

Nurse's notes of 3-28-13 indicated the LPN/Administrator noted a quarter-inch yellow area with brown discharged was noted adjacent to where the chest tube exited Tenant #4's chest. On 3-29-13 Tenant #4 was seen by his/her physician and ATB therapy was ordered. On 4-1-13 the RN requested additional wound care instructions. On 4-3-13 Tenant #4's physician ordered specific instructions for wound care around the chest tube insertion site.

Tenant #5's nurse's notes and staff communication notes indicated no significant change in status. Monthly nurse reviews completed on 1-29-13, 2-28-13 and 3-31-13 indicated no significant change in status.

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

- Monitoring Observation: A welfare check completed by a monitor on 4-11-13. Staff communication records of 4-8-13 and noted a UA had been ordered for Tenant #8. Staff communication records of the same date but separate entry indicated a urine sample would be picked up the next morning. Tenant #8's file found no documentation of a physician order for a UA. There was no record of a UA or suspected Urinary Tract Infection.

  The LPN/Owner arrived at the Program after a monitor requested she come to Program to discuss Tenant #8's health status. The LPN/Owner reviewed Tenant #8's file and confirmed what the monitor had found. The LPN/Owner looked through a folder that had been placed in the office and found UA results and an order for ATB therapy – one tablet twice daily for seven days dated 4-10-13. The Program did not assess Tenant #8 to determine if a significant change in status, requiring a nurse review to be completed.

- Regulatory Insufficiency: If a tenant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation monitor, at least every 90 days, or after a significant change in the tenant's

condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders. (IAC r. 481-69.27(1))

H. Food Service

During the onsite complaint investigation #41577-C & #41700 of 11-20 - 21 & 26, 2012, the Program received regulatory insufficiencies for not completing orientation on sanitation and safe food handling prior to the handling of food for Staff #1, #2, #3, #4 and #5.

- Monitoring Observation: Staff #2 and #3 were no longer employed at the Program. A review of Staff #1's personnel file indicated she had not completed an annual in-service within the last 12 months. Staff #4's personnel file indicated he had completed training on 9-29-12. Staff #5's personnel file indicated she had completed training on 10-26-12.

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

Staff #7, a universal worker who prepares and serves meals, was hired 3-1-13. A review of her personnel file indicated she had not completed an orientation on sanitation and safe food handling prior to handling food.

- Regulatory Insufficiency: Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have an annual in-service training on food protection. (IAC r. 481-69.28 (5))

I. Plan of Correction

The Program submitted a Plan of Correction on 12-21-12 and indicated corrective action was taken to correct the regulatory insufficiencies cited from the onsite investigation of 11-20-21 & 26, 2012.

- Monitoring Observation: The onsite investigation concluded the Program did not comply to the POC submitted on 12-21-13. The Program did not administer medications as prescribed by a physician for Tenant #8. The Program did not complete nurse delegated training for cares associated with ADLs for Staff #1, #4, #6 and #7. The Program did not complete evaluations with a significant change in status with Tenant #4 and #8. The Program did not complete a nurse review for Tenant #4 when an assessment was needed to determine if change in status existed. The Program did not complete an orientation on sanitation and safe food handling prior to handling food for Staff #1 and #7.

- Regulatory Insufficiency: Within 10 working days following receipt of the preliminary report, the program shall submit a plan of correction to the department. (a) The plan of correction shall include: elements detailing how the program will correct each regulatory insufficiency, what measures will be taken to ensure the problem does not recur, how the program plans to monitor performance to ensure compliance, and any other required information. (IAC r. 481-67.10(5)(a))