IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED
Complaint Intake #: 42070-C

March 8, 2013

Ms. Christine Vasquez, Administrator
Walden Point
1200 4th Street
Des Moines, IA 50314

RE: I. Final Complaint/Incident Investigation Report
II. Civil Penalty
III. Appeals/Hearings
IV. Conclusion

Dear Ms. Vasquez:

I. Final Complaint/Incident Investigation Report – Walden Point, Des Moines, IA

Enclosed is the **Final 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. The Report notes Regulatory Insufficiencies in the area(s) of: Medications, Policies and Procedures and Record Checks.

Walden Point is being assessed a $2,000 civil penalty pursuant to Iowa Code section 231C.14(1)(a)(b) and 481 IAC 67.12(3)(a)(1)(2). The Program failed to comply with regulatory requirements. The non-compliance resulted in imminent danger or a substantial probability of resultant death or physical harm to a tenant. Four staff did not have background checks completed.

II. 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 one thousand three hundred dollars ($1,300) within 30 business days after the receipt of this demand letter.

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. Conclusion

The Program is being assessed a $2,000 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a). The Plan of Correction (POC) submitted on March 5, 2013, has been reviewed and will constitute the final POC related to the on-site visit of January 15, 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 Investigation Report

Assisted Living Program:

Christine Vasquez, Administrator
Walden Point
1200 4th Street
Des Moines, IA 50314

Complaint/Incident Intake #: 42070-C

Date of Complaint/Incident Investigation:

January 15, 2013

Monitor(s):

Lori Miner, RN BSN

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:	58
Number of tenants with cognitive disorder:	0
Total Population of Program at time of on-site	58
TOTAL census of Assisted Living Program	58

Program History –The program received regulatory insufficiencies in the areas of: Medications, Evaluation, Food Service and Staffing during the May 8, 2012 Recertification on-site. During the November 7, 2012 Complaint Investigation (41318-C) the program received a regulatory insufficiency in the area of medications.

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

A. Medications

Complaint/Incident Allegation: It was alleged there were "holes" in the documentation of medications.

- Monitoring Observation: A medication pass was observed. Staff #1 was observed taking pills from a pre-filled planner, comparing the number of pills in the planner against the medication schedule, and referring to notations on a communication log prior to administering the medication to the tenants. The medication administration records (MARs)were reviewed for the following tenants during a medication pass:

  Tenant #1: The medication schedule indicated Tenant #1 was to receive 13 pills in the morning and five pills at bedtime. A notation on the communication log dated 12-27-12 indicated an "antibiotic 2x daily x 10 days." (two times daily for 10 days). The notation did not give an end date. The MAR indicated 14 pills were given in the morning on 1-1 through 1-4-13 and six pills were given at night on 1-1 through 1-4-13. The documentation on 1-5-13 indicated 13 pills were given in the morning and five at night, which would have been the 10th day after the 12-27-12 notation. Neither the notation nor the MAR gave clear direction as to the days the antibiotic was to be given. A notation on the communication log dated 1-7-13 indicated Prednisone "6 tabs, 5 tab, 4 tabs, 3 tabs, 2 tabs, 1 tab." A notation on the MAR dated 1-7-13 indicated the medications were held until the home health nurse arrived as the medication count was not right. The notation was made by Staff #1. The MAR contained no documentation the morning pills were given on 1-7-13, including the newly ordered Prednisone. The MAR documented on 1-8-13 that 13 pills were given

in the morning; there was no documentation of additional pills given following a notation for Prednisone. Directions for administration of medications were not clear. Medications were not given according to the medication schedule and communication log.

Tenant #3: The record for 1-6-13 and 1-8-13 indicated Tenant #3 received a medication at noon. The medication schedule did not indicate a noon medication was ordered. There was no documentation which indicated "as needed" medication was given. Tenant #3 received pills as well as liquid potassium twice a day. Documentation for January 2013 was not consistent as to whether or not potassium was given. Documentation was not clear as to what medication was given.

Tenant #4: The medication schedule indicated Tenant #4 was to receive seven pills in the morning, two pills in the evening and four pills at bedtime. On 1-7-13 an antibiotic was added twice daily for ten days with no end date given, which would have made the morning count eight pills for 10 days. The MAR did not contain clear direction as to the days the antibiotic was to be given. The MAR only documented eight morning pills on 1-9 and 1-10-13. There were "holes" for the evening and night doses on 1-14-13. Tenant #4 was to receive four pills at bedtime. On 1-7-13 an antibiotic was listed on the medication schedule to be given at bedtime. According to the MAR three pills rather than two were given for the evening dose on 1-7 and 1-8-13, and there were no additional pills given at bedtime. Documentation on the MAR did not match the medication schedule. The MAR indicated five pills were given at bedtime beginning 1-9-13. The bedtime pills did not increase to six until 1-13-13 even though the communication log dated 1-11-13 indicated Nitrofurantoin was added at bedtime. Directions for administration of medication were not clear. Medications were not documented as given.

Tenant #7: The medication schedule indicated Tenant #7 was to receive 19 pills on Friday. The MAR for Friday, 1-4-13 indicated 11 pills were given and contained documentation that eight pills were not in the planner. The MAR contained no documentation that the additional eight pills were given on 1-4-13. Medications were not documented as given.

Tenant #8: The medication schedule indicated Tenant #8 was to receive one pill at noon. The MAR contained a "hole" on 1-5-13; there was no documentation the noon medication was given. The medication schedule indicated Tenant #8 was to receive five pills at bedtime. The MAR documented three pills given at night on 1-3, 1-4, and 1-5-13 and four pills on 1-9 and 1-10-13. Medications were not documented as given.

Tenant #9: The medication schedule indicated Tenant #9 received 10 pills in the morning and three at both lunch and bedtime. There was a "hole" on 1-5 and 1-13-13 at bedtime. The MAR contained documentation dated 1-7-13 which indicated "med pills messed up hold back AM pills" until the home health nurse rechecks the medications. The documentation was signed by Staff #1. There was no documentation morning medications were given on 1-7-13.

During the course of the investigation, the following was noted:

Tenant #6: The MAR contained a "hole" on 1-5 and 1-13-13. Medications were not documented as given.

In summary, directions for medication administration were not written clearly. Medications were not documented as given or according to the medication schedule.

Complaint/Incident Allegation: It was alleged eyewash stations had outdated solution.

- Monitoring Observation: The Program identified three eyewash stations: one in the breakroom, one in the laundry room, and one in the utility room, all located on the first floor. The eye wash stations all contained a bottle labeled Buffered Eye-Lert. The bottle was empty in the breakroom, but fluid was still present in the bottles in the laundry and utility rooms. All bottles had an expiration date of 9-09. The eye wash fluid, a medication, was expired.

During the course of the investigation, the following was noted:

- Monitoring Observation: Staff #1, a Certified Nursing Assistant (CNA), was observed passing medications to several tenants. During the course of the medication administration, the following was noted:

  Tenant #1 was observed being given 13 pills from a planner. Staff #1 identified one of the pills was "too big." Staff #1 used bare hands to break the pill in half.

  Tenant #2 had 12 pills in the planner that were transferred to a towel to count to compare with the medication administration record (MAR). Staff #1 used bare hands to scoop the pills from the towel back into the planner.

  During the course of the administration of morning medications, Tenant #4 pulled a cup of pills from the cupboard and stated the cup of pills was left on the counter the previous night, and Tenant #4 did not take them. Staff #1 had been observed administering medication to nine tenants, even though she stated she was only reminding the tenant to take medications. Tenant #4 was not administered medications the previous evening as evidenced by Tenant #4 taking a filled pill cup from the cupboard and stating the pills were not taken the evening before.

  The program failed to follow accepted professional standards for medication administration.

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

B. Policies and Procedures

During the course of the investigation, the following was noted:

- Monitoring Observation: The Program was asked to provide all incident reports for January 2013 which related to medication errors. According to the nurse, there were no medication errors from January 1st through the date of the onsite visit, January 15, 2013. A review of MARS indicated medication planners were not filled correctly, and medications were not given as ordered. According to the Medication Error policy, a medication error included wrong dose as well as omission of a drug. When medications were not administered according to physician orders, staff were to report and document the medication error. The Incident Reporting policy indicated all unusual occurrences within the building that affect tenants shall be documented on an incident report form. The Program did not follow its policy regarding incident reports.

- Regulatory Insufficiency: A program's policies and procedures must meet the minimum standards set by applicable requirements. The program shall follow the policies and procedures established by a program. All programs shall have policies and procedures related to the reporting of incidents including allegations of dependent adult abuse. (IAC r. 481-67.2)

C. Staffing

Complaint/Incident Allegation: It was alleged staff members were not trained to administer insulin or to do blood sugar checks.

- Monitoring Observation: A medication pass was observed with Staff #1. Tenants #1, #3, #5 were all observed checking their own blood sugar. Tenant #5 self-administered insulin. Tenant #6 was reported to require morning insulin, but was out of the building during the onsite visit. Staff #1 and the nurse stated tenants self-checked blood sugar levels and self-administered insulin.

  Staff training records for Staff #1, #2, #3, and #4, all CNA's were reviewed. The nurse, hired 11-21-12, documented medication assistance training on 11-29-12.

- Regulatory Insufficiency: None noted.

D. Record Checks

During the course of the investigation, the following was noted:

- Monitoring Observation: Staff #1 was hired 10-31-12, Staff #2 was hired 10-15-12, Staff #3 was hired 9-26-12, and Staff #4 was hired 10-15-12. All were hired as Certified Nursing Assistants. All staff members had background checks completed however, the Program did not provide documentation that the Department of Public Safety had performed a criminal background check or the Department of Human Services had performed a child abuse or dependent adult abuse registry check.

  Four staff members did not have the required background checks completed according to Iowa Code.

- Regulatory Insufficiency: Pursuant to Iowa Code section 135C.33, a prospective

employee of a program shall have a criminal history check, dependent adult abuse check, and child abuse check performed before the prospective employee begins work. If a prospective employee has a criminal history or an abuse history, the prospective employee shall not be employed by the program unless the department of human services has performed an evaluation and determined that the record does not warrant the employment prohibition. Proof of the preemployment background check shall be maintained in the program's employee file. The program must meet all requirements of Iowa Code section 135C.33 and administrative rules adopted pursuant to Iowa Code section 135C.33. (IAC r. 481-67.9(3))