IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED

Complaint Intake #: 42070-CR1

May 2, 2013

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

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

Dear Ms. Vasquez:

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

Enclosed is the **Final Revisit to Complaint/Incident Investigation Report ("Report")** issued 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 **March 21, 2013.** The Report notes Regulatory Insufficiencies in the area(s) of: Medications, Policies and Procedures and Noncompliance with Plan of Correction.

Walden Point ("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 $5,000.

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 and Policies and Procedures.

The determination of a **$2,000 civil penalty** is based upon repeated Regulatory Insufficiencies in the area(s) of: Medications, Policies and Procedures and Noncompliance with Plan of Correction. As the enclosed Report details, the Program failed to properly document medications and failed to follow its policy regarding incident reports.

II. Reduction of Civil Penalty

If, within 30 days of the notice or service 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 days after the notice or service of this demand letter.

III. Appeals/Hearings

The Program may appeal the DIA decision within thirty (30) days of the notice or service of this demand letter by submitting a written 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 the notice or service of this demand letter.

IV. 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 April 29, 2013, has been reviewed and will constitute the final POC related to the on-site visit of March 21, 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 notice or service 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 Revisit to Complaint/Incident Investigation Report

Assisted Living Program:

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

Complaint/Incident Intake #: 42070-CR-1

Date of Complaint/Incident Investigation:

March 21, 2013

Monitor(s):

Lori Miner, RN BSN
Rose Boccella, MS, Program Coordinator
Ann Martin, RN, Bureau Chief

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:	59
Number of tenants with cognitive disorder:	0
Total Population of Program at time of on-site	59
TOTAL census of Assisted Living Program	59

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. The program received regulatory insufficiencies in the areas of: Medications, Policy and Procedures and Record Checks during the January 15, 2013 Complaint Investigation (42070-C).

A. Medications

The program received a regulatory insufficiency related to medication errors for Tenants #1, #3, #4, #6, #7, #8, and #9; outdated solution in eyewash stations, and use of bare hands to handle medications during the January 15, 2013 Complaint Investigation (42070-C).

- Monitoring Observation: The program was observed to have removed two eye wash stations, leaving only one. The expiration date on the solution on the one eyewash station was December 2014. The solution was not expired.

- Regulatory Insufficiency: None noted.

- Monitoring Observation: The Medication Administration Records (MARs) were reviewed for the following tenants beginning March 1, 2013:

  Tenant #1: The medication profile for Tenant #1 contained handwritten numbers at the top of the page which had been crossed out. It was unclear as to the correct number. As of the monitoring visit, the handwritten numbers did not contain a date or signature of a nurse. The communication log, dated 3-8-13 but not timed, indicated Tenant #1 was started on an antibiotic. The log was not initialed by a nurse

  Tenant #3: Tenant #3 was to receive pills as well as liquid potassium. The MAR did not indicate the potassium was given consistently as the documentation was not

consistent. "Holes" were noted on the MAR on 3-7 at night, 3-8 morning, and 3-15 and 3-16 at night. The MAR did not contain the tenant's full name.

Tenant #4: The medication schedule for Tenant #4 did not contain Tenant #4's name on all pages of the schedule. Nursing notes were not labeled with the tenant's name, and an entry at the top of the page outlining a change in the number of pills to be given day by day, was not dated with the date the change was to begin. In counting the number of pills listed on the schedule, a notation was made by the Warfarin listing that one and a half pills was to be given which would have put the pill count at five and one-half pills in the planner rather than five as typed on the schedule. The schedule also contained handwritten notes as to the number of pills to be given during the medication pass. Tenant #4 received medication at both supper time and bedtime. Underneath both time periods was a handwritten note which indicated the number of pills varied with the day of the week. The documentation was not clear as to whether it was the supper time or bedtime pills affected. The medication schedule was not clear as to what pills made the count vary from day to day. Tenant #4 was also to receive inhaled medication in the morning and at bedtime. The inhaled medication was not documented consistently. "Holes" were present on the MAR on 3-6 in the evening and 3-8 in the morning. Documentation in the comments section for 3-5-13 indicated pills were held per order, but the documentation was not clear as to the number of pills held. Handwritten changes to the number of pills to be given were not always signed by a nurse.

The clinical record for Tenant #4 contained cards which indicated dosages of warfarin by day. There were two cards present. Neither card was noted with time, date, and signature of a nurse. The cards contained no date to indicate when the changes were to be effective. A fax which was undated, and did not include any tenant's name indicated Metformin was to be held for 48 hours. The fax was contained in the clinical record for Tenant #4 and Tenant #4 was noted to be on Metformin according to the medication schedule. The fax was not noted by a nurse with time, date, or signature.

Tenant #6: The medication profile indicated by handwritten note the number of pills to be given. There was no handwritten documentation as to inhalers which were found when reading through the profile. The documentation to staff as to the need for inhalers was not consistent with other files reviewed. Other files indicated a number of pills plus inhalers. The MARS did not show consistent documentation of either inhalers or insulin. The Nurse indicated insulin was documented as the letter "I" circled. The key on the MAR did not indicate a circled "I" was insulin. The MAR dated 3-6-13 at noon was completely scratched out and it was not possible to determine whether or not noon medications had been given. The comment box dated 3-6-13 documented a pill was missing.

The medication profile with a print date of 3-12-13 had handwritten numbers at the top of the first page to indicate the number of pills to be given. A number for morning pills was changed but was not dated or signed by a nurse. As of 3-12-13, the number of pills listed in the morning was to be 17. A new medication profile dated 3-18-13 was contained in the clinical record. The MAR dated 3-12-13 through 3-26-13 indicated 18 pills were given.

Tenant #7: The medication schedule was reviewed. The schedule documented the number of pills to be given, however, there had been changes to the number of pills and it was difficult to determine the actual number of pills to be given. The changes were not documented with date and signature. The nursing notes used to document changes as well as one page of the MAR did not contain information regarding the tenant to which the information applied. Tenant #7 received oral medications as well as inhaled medication. The program was not consistent in the documentation of the inhaled medication. The MAR contained a "hole" on the night of 3-4-13.

The nursing notes dated 3-17-13 indicated an on-call nurse was contacted in regards to Tenant #7's medications. The note indicated the medications in the planner were to be clarified. The program did not provide an incident report to document what staff members found that resulted in a call to the on-call nurse.

Tenant #8: The medication profile indicated the thyroid medication for Tenant #8 was in a separate medication planner. Documentation on the nursing notes indicated the thyroid medication was to be set out the night prior. The MAR did not consistently show documentation of the medication being set out, or that the medication was taken. The MAR contained "holes" on 3-12-13 and 3-20-13 at noon.

Tenant #9: The medication profile documented the number of pills to be given and the MAR documented pills being given as indicated on the profile.

Tenant #10: During the medication pass, Staff #5 observed there were more pills in the planner than were indicated on the medication profile. The medication profile, with a print date of 1-28-13, indicated six pills in the morning and three at bedtime. Insulin was also given at those times. Staff #5 notified the Home Health Nurse. After some research, the Home Health Nurse provided documentation that on 3-9-13 an on-call nurse added an antibiotic and an analgesic to the planner. The current medication profile containing information on the antibiotic and analgesic was not part of the information on the medication profile available to Staff #5 at the time of the medication pass.

A review of the MAR indicated Tenant #10 received six pills in the morning 3-3 through 3-9, received eight pills 3-10 through 3-12, received six pills 3-13 through 3-15, eight pills on 3-16, seven pills on 3-17 and eight pills 3-18 through 3-20. In reviewing the MAR for the noon and bedtime medications, between three and five pills were given 3-13 through 3-20-13. The number of pills listed on the available medication profile did not match the number of pills given. The number of pills varied and was not consistent with antibiotic administration.

The MAR for Tenant #10 had "holes" at bedtime on 3-4 and in the evening 3-12-13.

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

- Monitoring Observation: Staff #5 was observed during medication passes to six tenants. Staff #5 failed to wash hands or use hand sanitizer on five occasions.

Staff #6 was observed during medication passes to four tenants. Staff #6 documented the pills were taken by a tenant prior to the tenant actually taking the pills on three occasions.

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 January 15, 2013 Complaint Investigation (42070-C) the program received a regulatory insufficiency related to the policy on incident reports not being followed.

- Monitoring Observation: The Program was asked to provide all incident reports for March 2013 which related to medication errors. The program provided one incident report which dated 3-13-13 which indicated bedtime medications were accidentally omitted for a tenant. An undated comment on the MAR 3-3-13 through 3-9-13 for Tenant #7 indicated an inhaler was "out" and Tenant #7 did not take it. Tenant #9 had a comment on the MAR dated 3-11-13 which indicated there were no bedtime pills in the medication planner. A review of MARS indicated medications were not given as ordered as indicated by "holes." As noted in the previous report, 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 members 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. Record Checks

The program received a regulatory insufficiency because records for Staff #1, #2, #3, and #4 did not contain background checks using a Department of Public Safety or Department of Human Services review during the January 15, 2013 Complaint Investigation (42070-C).

- Monitoring Observation: Staff #1 and #4 continued to be employed at the program during this onsite visit. The file for Staff #1 indicated the Department of Human Services provided record checks related to child (3-18-13) and dependent adult abuse

(3-21-13). Staff #2 and #3 were no longer employed at the program. The file for Staff #4 indicated the Department of Human Services provided record checks related to child (3-18-13) and dependent adult abuse (3-21-13). No employees were hired after the plan of correction date. The Administrator indicated SING (Single Contact License and Background Check Repository) would be used to completed background checks for all new employees.

- Regulatory Insufficiency: None noted.

D. Plan of Correction

- Monitoring Observation: The program did not resolve the insufficiencies in the areas of medications and policies and procedures received during the January 15, 2013 Complaint Investigation (42070-C), as noted in the plan of correction.

- Regulatory Insufficiency: The department may conduct a monitoring revisit to ensure that the plan of correction has been implemented and the regulatory insufficiency has been corrected. A monitoring revisit by the department shall review the program prospectively from the date of the plan of correction to determine compliance. (IAC r. 481-67.10(8))