IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

July 22, 2009

Complaint #: 22660-C

CERTIFIED

Ms. Victoria Huffman, Administrator
Jefferson Point Assisted Living
45 Jefferson St
North Liberty, IA 52317-9050

RE: I. Final Complaint Investigation Report, Jefferson Point Assisted Living, North Liberty, IA
II. Appeals/Hearings
III. Civil Penalty
IV. Conclusion

Dear Ms. Huffman:

I. Final Complaint Investigation Report #22660-C, Jefferson Point Assisted Living, North Liberty, IA

Enclosed is the **Final Complaint Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with the Code of Iowa, Chapter 231C, 321 Iowa Administrative Code chapter 25, (pertaining to assisted living programs) and 321 Iowa Administrative Code chapter 26, (pertaining to monitoring, civil penalties and complaints). The report notes Regulatory Insufficiencies in the areas of: Evaluation of Tenant, Service Plan and Nurse Review. A copy of the Final Report is enclosed.

The Request for Reconsideration in the area of Evaluation of Tenants, has been denied as evaluations were required with the circumstance cited and when there is a change in the service plan. The Request for Reconsideration in the area of Service Plans, is denied as when there is a change in a tenant's services, evaluations and service plans are required to be updated. The Request for Reconsideration under Nurse Review, is denied as Chapter 69 is not yet in effect. Also, due to the tenant's cognitive status adequate nurse reviews, evaluations and service plans need to be completed.

DIA is accepting the Plan of Correction (POC).

II. Appeals/Hearings

The Program may appeal the DIA decision in accordance with 321 Iowa Administrative Code 26.4, within 30 days of notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to 481 Iowa Administrative Code Chapter 10. If the program appeals, the civil penalty will be suspended, pending appeal.

III. Civil Penalty

If, within thirty (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 penalty, the assessed penalty will be reduced by thirty–five percent (35%) pursuant to Iowa Code section 231C.14. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send written notice to the Certification Coordinator and remit the penalty assessed by check or money order in the amount of nine hundred seventy five ($975) dollars within 30 business days after the receipt of this demand letter to: Iowa Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Bldg., 3rd Floor, Des Moines, IA 50319-0083.

IV. Conclusion

Jefferson Point Assisted Living is being assessed a $1,500.00 civil money penalty. The Plan of Correction is accepted. DIA may revisit the program to confirm compliance in fulfilling the POC's corrective measures. If the program wishes to appeal or request a hearing on the final findings, the program may do so within 30 days of this letter.

If you have any questions regarding this certification, please contact your Certification Coordinator at 515-281-4116.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program: **Complaint Intake #:** 22660-C

Ms. Victoria Huffman, Administrator
Jefferson Point Assisted Living
45 Jefferson St
North Liberty, IA 52317-9050

Date of Investigation:

March, 27 & 30, 2009

Monitor(s):

Hal L. Chase, RN BSN MPH

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 Jefferson Point Assisted Living on March 27th and 30th, 2009. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* – A program that is not a Dementia Specific program, but may have tenants with cognitive disorder.

Current number of tenants without cognitive disorder:	17
Current number of tenants with cognitive disorder:	0
Total Population:	17

Dementia Specific Program (DSP)* – Not applicable.

***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 Regulatory Insufficiencies this certification period in the areas of: Evaluation of Tenants, Service Plans, Nurse Review and Staffing.

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)]

Complaint Allegation: It is alleged staff found Tenant #2 in Tenant #1's apartment, fondling the tenant.

Monitoring Observation: Tenant #1 was discharged from the program on 3-24-09. Tenant #1, a 78 year old, was admitted on 8-25-08 and has diagnoses of: Alzheimer's Disease, Dementia and Hypothyroidism. A cognitive evaluation was completed on 2-23-09 and staged the tenant at a five on the Global Deterioration Scale (GDS), which indicated moderate cognitive decline.

Staff #1 stated that on 3-21-09 after dinner, Tenant #2 approach Tenant #1 and began rubbing the tenant's right shoulder, moving his/her hand toward Tenant #1's breast. Staff #1 watched both tenants go into the hallway and then into Tenant #1's apartment. Staff #1 waited about a minute to see if Tenant #2 would leave the tenant's apartment. Staff #1 did not see Tenant #2 leave the apartment so she went into Tenant #1's apartment and saw Tenant #1's top raised above the tenant's chest and the tenant's bra raised over the tenant's breasts. Tenant #2 was fondling Tenant #1's breasts.

Staff #1 asked Tenant #2 what he/she was doing and stated he/she should not be in Tenant #1's apartment. Staff #1 asked Tenant #2 to leave, the tenant objected and asked why he/she couldn't be there. Staff #1 stated Tenant #1's son did not want the tenant to have company. The tenant left and went to his/her apartment. Staff #1 called the Nurse Supervisor I, who was not on call and who then instructed Staff #1 to call the Nurse Supervisor II, who instructed Staff #1 to "keep an eye on both tenants." Staff #1 stated the Administrator called her and told her to complete 15 to 30 minute checks on Tenant #2. (Communication report of 2-23-09 indicated one-hour safety checks were initiated for Tenant #1 due to the tenant's cognitive decline, wandering and attempted elopements.) Staff #1 stated around 8:00 p.m. to 8:30 p.m. Tenant #2's family arrived at the program. Staff #2 Registered Nurse (RN), arrived and spoke to the family and Tenant #2 and the family left the program.

Staff #1 stated this was the first and only time this had occurred between the two tenants. She stated Tenant #2 was "pretty friendly" with everyone and was "especially friendly" toward Tenant #1. Both tenants would be seen walking together after dinner.

The program RN stated staff had told her they had seen both tenants holding hands and would occasionally see Tenant #2's arm around Tenant #1. The program RN asked Tenant #2 if he/she had a relationship with Tenant #1 and the tenant stated they did not have a relationship. The program RN stated she did not document this discussion in the case notes. The program RN stated Tenant #1 could not advocate for himself/herself and did not know the type of relationship the tenant's had. The program RN stated the cognitive status of Tenant #1 was more profound than Tenant #2's.

The Administrator stated she would see Tenant #1 and Tenant #2 together walking to meals and activities. Both tenants would visit often and would watch television or a

movie in the main dining room. The Administrator stated what she witnessed was a friendship between both tenants.

Nurse Supervisor I stated she did not know if the sexual encounter of 3-21-09 between both tenants was or wasn't consensual. The Nurse Supervisor I stated Tenant #2 did not have a history of inappropriate behavior toward tenants. She indicated both Tenant #1 and #2 had cognitive impairment and appeared to have a friendship but she was not aware of any intimacy between them.

Nurse Supervisor II stated she called Staff #1 at 5:30 p.m. and told Staff #1 to keep an eye on Tenant #1. She spoke to the Administrator who stated Tenant #2 had to leave the program "at least" until Tenant #1 was discharged. The Nurse Supervisor II stated "we had to protect" Tenant #1 until he/she leaves.

Communication records of 3-21-09 indicated Staff #2,RN, met with Tenant #1 following the incident and noted no distress. Staff #2 asked if the tenant's son had visited today. The tenant stated his/her son dropped off laundry but stated he/she had no other visitors. Staff #2, RN, stated the tenant smiled and did not seem to be visually distressed at the time. The program did not complete a functional, cognitive or health evaluation to determine if modifications to services were needed.

Tenant #2, a 57 year old, was admitted on 9-23-08 and has diagnoses of: Mental Retardation, Hypertension, Diabetes Mellitus II with Neuropathy Manifestations and a History of Foot Ulcers. The tenant's file did not indicate a cognitive evaluation was ever completed. Functional and health evaluations were completed on 3-5-09. Following the incident that occurred on 3-21-09, Tenant #2 left the program that day and returned on 3-24-09. Functional, cognitive and health evaluations were not completed when the tenant returned to the program to determine if modifications to services were needed.

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

Monitoring Observation: Tenant #1's file included a document titled, "Elopement Attempts" that indicated the tenant eloped from the program on 12-15-08 around 1:40 p.m. and was brought back to the program by the local County Sheriffs Department around 2:00 p.m. The program completed an Oasis (Outcome and Assessment Information Set) tool which included a functional and health evaluation on 12-16-08. The program asked the tenant "brief cognitive questions" which indicated the tenant was "relatively" the same as on admission, "rating 3.6," but the program did not complete a cognitive evaluation to determine if modifications to services were needed.

A cognitive evaluation was completed on 2-23-09 and staged the tenant at a five on the GDS, which indicated moderate cognitive decline. Tenant records indicated the program gave the tenant a 30-day notice of permanent discharge from the program on 2-25-09 as the tenant had meet the program's transfer criteria. The program did not complete a functional and health evaluation, despite a change in cognitive status, to determine if modifications to services were needed.

- Regulatory Insufficiency: The program did not consistently evaluate tenants' cognitive, functional abilities and health status as needed. (25.23(2))

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

Complaint Allegation: It is alleged staff found Tenant #2 in Tenant #1's apartment, fondling the tenant.

Monitoring Observation: Tenant #2's service plan was updated on 3-21-09 to include 15-30 minute checks as a result of the incident of 3-21-09, but was not supported by functional, cognitive and health evaluations. The service plan was updated on 3-23-09 as the 15-30 minute checks were discontinued, but the update was not supported by functional, cognitive and health evaluations. The tenant left the program with family on 3-21-09 and returned on 3-24-09. The service plan was updated on 3-24-09 and included interventions; such as: staff asking the tenant what his/her plans were for the day in order for staff to know where the tenant was for most of the day and limits such as, no touching of staff or tenants without their permission, not entering other tenant's apartments without permission and reminders of personal boundaries. The service plan update was not supported by functional, cognitive and health evaluations.

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

Monitoring Observation: Tenant #1's communication report dated 2-23-09, indicated there would be one-hour safety checks due to the tenant's cognitive decline, wandering behaviors and attempted elopements; however, the interventions were not included on the service plan. A service plan was updated on 2-23-09 but was not supported by functional and health evaluations. The program conducted evaluations; however, did not include adequate interventions related to the wandering, attempted elopements, two-hour checks and then one hour checks of the tenant.

- Regulatory Insufficiency: The program did not consistently update tenants' service plan as needed. (25.28(3))

C. 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]

Complaint Allegation: It is alleged staff found Tenant #2 in Tenant #1's apartment, fondling the tenant.

Monitoring Observation: On 3-21-09 an incident, described earlier in this report, occurred between Tenant #1 and Tenant #2. Communication records of 3-21-09 indicated Staff #2, RN, met with Tenant #1 and noted no distress. Staff #2, RN, asked if the tenant's son had visited today. The tenant stated his/her son dropped of laundry but stated he/she had no other visitors. Staff #2, RN, stated the tenant smiled and she did not visually observe any distress at that time. The program did not complete a nurse review to determine if there was a change in the tenant's health status.

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

Monitoring Observation: Tenant #1's cognitive evaluation was completed on 2-23-09 and staged the tenant at a five on the GDS, which indicated moderate cognitive decline

which was a change from the 3.6 rating dated 12-15-08. The program did not complete a nurse review to determine if there was a change in the tenant's condition.

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

D. 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.

Complaint Allegation: It is alleged there is no lighting outside where tenants go to smoke.

Monitoring Observation: There isn't a requirement in the Life Safety Code that would require the program to provide additional exterior lighting for this purpose.

- Regulatory Insufficiency: None noted.

Complaint Allegation: It is alleged the threshold of the entrance is raised about an inch and is a trip hazard, especially for those with walkers.

Monitoring Observation: The program is aware of this issue. They have been advised that they cannot fix the sidewalk until the frost is out of the ground. The program should have a reasonable time frame for this to be repaired.

- Regulatory Insufficiency: None noted.

Complaint Allegation: It is alleged the elevator is not level when it hasn't been used for awhile. There is about an inch drop off to the floor, and then the elevator levels up after you get on.

Monitoring Observation: Documentation indicates that the program made a good faith effort to correct the issue and the manufacturer has been on-site three times on 3-23-09, 3-26-09 and 3-27-09 for service calls. The elevator company is trying to resolve the issue.

- Regulatory Insufficiency: None noted.

Dated this 15th day of July, 2009.