IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

June 26, 2008

Complaint Intake: #15557

Bonnie Smith, Director
Bickford Cottage Assisted Living
1100 Linden Drive
Marion, IA 52302-7714

RE: I. Final Complaint Investigation Report – #15557 and Recertification Revisit
II. Immediate Sanction – Conditional Operation
III. Civil Penalty
IV. Hearings and Appeals
V. Conclusion

Dear Ms. Smith:

Final Recertification Monitoring Evaluation Revisit and Complaint Investigation Report – Bickford Cottage, Marion

Enclosed is the **Final Recertification Monitoring Evaluation Revisit and Complaint Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code section 231C.7 (2007) and Iowa Administrative Code, chapters 321—25, pertaining to assisted living programs and 321—26, pertaining to monitoring, civil penalties and complaints regarding assisted living programs. The Final Report notes the **Regulatory Insufficiencies,** as defined in the areas of: Evaluation of Tenant, Service Plan, Medications and Other.

DIA is accepting the Plan of Correction (POC) submitted and has corrected the error in regard to Tenant #8.

II. Immediate Sanction - Conditional Operation

As reflected in the Reports, the program failed to comprehensively follow the regulations in 321 IAC Chapter 25. Due to the program's noncompliance, current Regulatory Insufficiencies and the findings from the on-site monitoring visit of April 8, 2008, Bickford Cottage - Marion will continue with the following sanctions. The program's Conditional Certificate is to continue until such time as the program is in compliance, but in no case longer than **December 5, 2008.**

In addition, documentation needs to be submitted of the completion of Assisted Living Management Training for the Nurse and Program Director, thirty day nurse reviews are required to be submitted and any new staff are required to have documented nurse delegation training submitted to the DIA. The Conditional Certificate and sanctions are effective immediately based on the Department's determination. While effective immediately, the program may appeal these sanctions by filing an appeal within 30 days of issuance of this letter.

III. Civil Penalty

If no appeal is requested within 30 days of receipt of this Final Complaint Investigation Report the civil penalty obligation, in the amount of four thousand ($4,000.00) dollars, is required.

IV. Hearings/Appeals

The Program may appeal the DIA decision in accordance to 321 IAC 26.4, within 30 days of notice, by submitting a request for appeal to the DIA. Hearings will be held pursuant to 481 IAC Chapter 10. If the program appeals, the civil penalty will be suspended, pending appeal. If the program does not appeal, the fine is due within 30 days of notice.

V. Conclusion

Bickford Cottage - Marion is having its Conditional Certificate, issued December 5, 2007, extended. The Program Director and Registered Nurse are required to complete Assisted Living Management Training and submit documentation of such, the nurse is required to complete thirty day nurse reviews and submit them to DIA, and the program must submit documentation to DIA of all nurse delegated training for new staff. Bickford Cottage is being assessed a $4,000.00 civil money penalty.

DIA may revisit the program to confirm compliance in fulfilling the POC's corrective measures. If the POC is not submitted within the required timeframe, the program does not completely address Regulatory Insufficiencies, or if the program remains out of compliance with 321 IAC chapter 25, DIA will suspend or revoke the program's Conditional Certificate.

The Plan of Correction submitted, is accepted.

If you have any questions in regard to these matters, please contact me at (515) 281-5077.

Sincerely,

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program: **Complaint Intake #: 15557**

Bonnie Smith, Director
Bickford Cottage Assisted Living
1100 Linden Drive
Marion, IA 52302-7714

Date of Investigation:

April 8, 2008

Monitor(s):

Hal Chase, RN BSN MPH
Stephanie Cummins, SW MA

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 and recertification revisit was conducted at Bickford Cottage Assisted Living on April 8, 2008. 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:	20
Current number of tenants with cognitive disorder:	11
Total Population:	31

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:	4
Current number of tenants without cognitive disorder:	0
Total Population:	4

***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 in the areas of: Evaluation of Tenants, Criteria for Exclusion of Tenants, Service Plans and Staffing.

The program history includes complaint investigations of: July 25, 2006, September 20 - 21, 2006 and December 21, 2006, March 19, 2007.

A revisit to the July 25, 2006 complaint was conducted at the time of the complaint investigation of September 20-21, 2006. The revisit and complaint conducted on September 20 - 21, 2006 resulted in a fine of $500.00.

The December 21, 2006 complaint resulted in a $500.00 fine.

During the March 19, 2007 investigation a second revisit was conducted to the July 25, 2006 complaint, a revisit was conducted to the September 20-21, 2006 complaint and a revisit was conducted to the December 21, 2006 complaint. The March 19, 2007 investigation resulted in a $2,000.00 fine.

The November 13, 2007 Recertification Monitoring visit resulted in issuance of a Conditional Certificate, the program's Director and Registered Nurse being required to attend management training, 30 day nurse reviews being completed by the program and documentation of nurse delegation with any new staff. The program was also required to pay a civil penalty of $1,500.00.

Complaint Investigation – The complaint investigator(s) made the observations detailed in the following areas.

A. Occupancy Agreement – The program shall enter into an occupancy agreement with the tenant or tenant's legal representative, if applicable, prior to the tenant's taking occupancy that clearly describes the rights and responsibilities of the tenant and of the program, and shall sign a managed risk policy disclosure statement. [321 IAC 25.22]

The program had received a regulatory insufficiency at the time of the November 2007 visit, related to not consistently obtaining a signed occupancy agreement prior to the tenant taking occupancy.

Monitoring Observation: Files for Tenant #6, admitted on 11-28-07 and Tenant #9, admitted on 3-14-08, were reviewed and had occupancy agreements signed appropriately.

- Regulatory Insufficiency: None noted.

B. 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 visit regarding Tenants #1, #2, #3 and #5, related to not consistently completing cognitive, health and functional evaluations, as needed, with a change in the tenant's condition.

Monitoring Observation: Tenant#1 was deceased on 1-9-08, Tenant #2 was deceased on 11-22-07 and Tenant #3 was discharged on 2-25-08.

Tenant #5, a 74 year old, was admitted on 5-27-05 and diagnoses include: Diabetes, Chronic Obstructive Pulmonary Disease (COPD), Osteoporosis, Hyperlipidemia, Renal Insufficiency, Bi Polar Disorder, Peripheral Neuropathy, Cancer of the Uterus, Urinary Frequency, Compression Fractures and Degenerative Disc Disease. The cognitive evaluation was updated; however, was not completed with changes. The Mini Mental Status Examination (MMSE) was originally dated 12-14-07. The evaluation tool was updated on 1-9-08, 1-17-08 and 1-21-08 and no changes were indicated. The evaluation tool was updated; however, was not appropriately completed, when changes in medication and issues with cellulites occurred. The MMSE did not have a scoring tool to denote cognitive risk.

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

Tenant #6, a 90 year old, was admitted on 11-28-07 and diagnoses include: Visual Hallucinations, Mild Dementia, Lewy Body Dementia associated with Parkinson's Disease and History of Knee Surgery with replacement. The tenant resided in the dementia unit. The tenant was staged at a six on the Global Deterioration Scale (GDS), which indicated severe cognitive decline. Functional evaluations were not completed on 2-27-08 and 3-7-08, as needed, following an increase in falls and decrease in functioning, according to the health evaluation. A health evaluation was not completed on 2-6-08, with a decline in physical condition and cognition, according to the cognitive evaluation. Physical Therapy (PT) was stopped on 2-20-08, according to a program document. Evaluations were not completed, as needed.

Tenant #7, an 89 year old, was admitted on 2-16-06 and diagnoses include: Depression, Dementia, Status Post Right Hip Fracture with Repair, Prostate Cancer, Hypertension (HTN), Arthritis, Constipation, Back Pain and Agitation. The tenant was admitted to Hospice on 4-2-08 with a diagnosis of Prostate Cancer. Functional, cognitive and health evaluations were completed on 4-3-08. A review of the tenant's file indicated the program did not have the hospice's initial plan of care of 4-2-08. The Registered Nurse (RN) stated the hospice nurse hadn't brought the initial assessment and plan of care of 4-2-08. The program was not able to determine modifications to services needed as the program did not have the hospice initial assessment and plan of care. Progress notes of 4-4-08 indicated the tenant's daughter reported to the program her concern over the tenant's confusion. Progress notes of 4-5-08 through 4-6-08 indicated the tenant's left thigh to ankle was "rock hard" and warm to touch. The program did not complete a functional, cognitive and health evaluation to determine if any modifications to services were needed, related to the edematous left leg.

Tenant #8, an 84 year old, was admitted on 1-14-06 and diagnoses include: Dementia, Depression, History of Right 12 Rib Fracture, Constipation, Pain and History of Low Hemoglobin. A cognitive evaluation was completed on 2-8-08, staging the tenant at a six on the GDS, indicating severe cognitive decline. Occupational therapy's (OT) plan of care indicated the tenant received treatment from 12-18-07 through 1-2-08. Functional, cognitive and health evaluations were not completed when the tenant began OT.

Tenant #9, an 84 year old, was admitted on 3-14-08 and diagnoses include: Alzheimer's Dementia and a History of Urinary Tract Infections (UTIs). A cognitive evaluation was completed on 3-7-08, staging the tenant at a five on the GDS, indicating moderately severe cognitive decline. A Physical Therapy (PT) plan of care indicated the tenant received treatment three times weekly from 3-17-08 through 4-15-08. Functional, cognitive and health evaluations were completed prior to admission on 3-7-08 and within 30 days of admission on 3-28-08, but evaluations were not completed when the tenant began PT.

- Regulatory Insufficiency: The program did not consistently evaluate each tenants' functional, cognitive and health status, as needed, to determine the tenants' continued eligibility for the program and to determine any modifications to the services needed. The evaluation shall be conducted by a health or human service professional. (25.23(2))

C. Tenant Documents – Program maintains a complete file for each tenant containing all appropriate documentation. [321 IAC 25.27]

The program had received a regulatory insufficiency at the time of the November 2007 visit regarding Tenants #3 and #5 related to not consistently maintaining a complete file for each tenant including a copy of the tenant's legal representative.

Monitoring Observation: Tenant #3 was discharged on 2-25-08. Tenant #5 had a copy of a Durable Power of Attorney (DPOA) document in their file. Tenant #5 signed the most recent tenant documents. Review of remaining tenant files indicated appropriate legal representative documents were in the files.

- Regulatory Insufficiency: None noted.

D. 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 visit, regarding Tenants #2, #3 and #5 related to not consistently updating the service plan when the tenants had a change in condition and not consistently developing service plans that reflected the needs of the tenants.

Monitoring Observation: Tenant #2 was deceased on11-22-07 and Tenant #3 was discharged 2-25-08. Tenant #5 had service plans completed appropriately.

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

Tenant #6 did not have service plan updates completed on 2-27-08 and 3-7-08, as needed, following an increase in falls and a decrease in functioning, according to the health evaluation. PT was discontinued on 2-20-08, and the service plan was not updated, as needed.

Tenant #7 was admitted to Hospice on 4-2-08, but the program did not have Hospice's initial assessment/plan of care and subsequent plan of care of 4-7-08. Progress notes of 3-31-08 indicated the tenant was exit seeking. The service plan of 4-3-08 identified the tenant's exit seeking but did not establish interventions for staff to initiate when the tenant exhibited this behavior. A monitor obtained the initial assessment/plan of care of 4-2-08 and subsequent plan of care of 4-7-08 from Hospice. The initial Hospice plan of care included Hospice nursing services twice weekly and as needed, for physical assessment, pain and symptom management, activities of daily living (ADLs), socialization, fall precautions, routine home care and nutritional requirements, as tolerated. The Hospice plan of care of 4-7-08 included a home health aide twice weekly to assist the tenant with showers and three times weekly for personal ADLs. The service plan was updated on 4-3-08 but it did not reflect the identified needs and interventions by Hospice and did not identify Hospice as an outside provider providing coordinated care.

Tenant #8 received OT beginning 12-18-07 through 1-2-08. A service plan was updated prior to OT on 11-5-07 and post OT on 4-1-08 but a service plan was not updated to reflect, the identified needs and interventions related to Occupational Therapy.

Tenant #9 received PT three times weekly from 3-17-08 through 4-15-08, but the service plan was not updated to reflect the identified needs and interventions related to PT and it did not identify PT as an outside provider, who was providing coordinated care.

- Regulatory Insufficiency: The program did not, when the tenant needed personal care or health-related care, update the service plan, as needed, in order to meet the needs of the tenant. (25.28(4))

- Regulatory Insufficiency: The program did not individualize the service plan and did not indicate, at a minimum: the tenant's identified needs and the tenant's request for assistance and expected outcomes; any services and care to be provided pursuant to

the occupancy agreement with the tenant and the service providers if other than the program (25.28(4))

E. 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: Documentation indicated medications and treatments were charted as refused without documentation describing why the tenant refused the medication, or if staff attempted to give the medication at a later time, or if staff just did not chart the medication as given for Tenant's #8 and #11. Tenant #9 was given two additional doses not ordered by the tenant's physician. A review of Tenant's #12 through #16's Medication Administration Records (MARs) for March 2008 showed the program recorded medications as refused but without explanation and did not document medications and treatments that were not given. These are not included in the table below.

Tenant #8	Namenda, 10 mg tablet, twice daily.	Recorded as refused the 8:00 p.m. dose on 3-18-08, 3-20-08 and 3-26-08.
Tenant #8	Oyst-cal, 500mg tablet, twice daily.	Recorded as refused the 8:00 p.m. dose on 3-18-08, 3-20-08 and 3-26-08.
Tenant #8	Acetaminophen, 325mg., two tablets three times daily.	Recorded as refused the 8:00 p.m. dose on 3-18-08, 3-20-08 and 3-26-08.
Tenant #8	Haloperidol, 0.5mg, one tablet at bed time.	Recorded as refused the 8:00 p.m. dose on 3-18-08, 3-20-08 and 3-26-08.
Tenant #8	Mirtazapine, 30 mg tablet, one tablet at bed time.	Recorded as refused the 8:00 p.m. dose on 3-18-08, 3-20-08 and 3-26-08.
Tenant #9	Cipro, 250mg, twice daily for seven days.	Recorded as completed on the evening of 4-3-08 but two additional doses were given.
Tenant #11	Propranolol, 40mg tablet, one tablet three times daily.	Recorded as given four times daily on 4-1-08, 4-2-08, 4-5-08 and 4-7-08.

- 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. (25.29(2)a) (655-6.2(5)e(152))

F. 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 2007 visit regarding, Tenants #1, #2, #3 and #5 related to not consistently assessing and documenting the health status of each tenant that receives personal and health related care and make recommendations and referrals as appropriate, and monitoring progress on previous recommendations, at least every 90 days, or if there are changes in health status.

Monitoring Observation: Tenant #1 was deceased on 1-9-08, Tenant #2 was deceased on 11-22-07 and Tenant #3 was discharged on 2-25-08. Tenant #4 and Tenant #5 had nurse reviews completed appropriately.

- Regulatory Insufficiency: None noted.

G. 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 insufficiency at the time of the November 2007 visit, related to not consistently having sufficient trained staff available at all times.

Monitoring Observation: Staff #2, #3 and #4 indicated they had received training from the nurse relative to their job responsibilities. They stated the training provided by the nurse had appropriate instruction and demonstration and return demonstration. Review of delegation documents indicated the nurse had provided training including: Activities of Daily Living (ADLs), medications and treatments. The nurse and staff signed the delegation sheets.

- Regulatory Insufficiency: None noted.

Complaint Allegation #15557: It was alleged in December of 2007, five employees were tested on performing 15 different areas of nurse delegated training. The training lasted four hours with the nurse as the trainer. The nurse performed the task, the staff then performed the task and then there was feedback. The nurse trained staff on blood pressures, anti-embolism stockings and pulses. It was alleged there was no education on the remainder of the tasks but staff signed off on all of the tasks. It was alleged staff felt intimidated into signing off, as the nurse "was in a position bigger" than theirs.

Monitoring Observation: Staff #2, #3 and #4 indicated they had received training from the nurse relative to their job responsibilities. Staff #2, Staff #3 and Staff #4 stated the training provided by the nurse had appropriate instruction, demonstration and return demonstration. Review of delegation documents indicated the nurse had provided training including: Activities of Daily Living (ADLs), medications and treatments. The nurse and staff signed the delegation sheets. The nurse indicated she provided training for direct care staff that involved demonstration, return demonstration, discussion of any concerns and documentation of tasks. The nurse stated she had previously completed

delegations in a group and staff returned demonstrations. The nurse's current practice related to nurse delegation was to have one to two staff and to make it more individualized for each staff. Staff #2, Staff #3 and Staff #4 indicated they did not feel intimidated into signing the delegation sheets. The nurse indicated none of the staff expressed concerns of intimidation regarding signing the delegations sheets. The nurse asked the Director and she had no conversations regarding any concerns with delegation training.

- Regulatory Insufficiency: None noted.

H. Dementia-specific education for program personnel – A dementia-specific program shall employ or contract with personnel who have received appropriate dementia-specific education and training. [321 IAC 25.34]

The program had received a regulatory insufficiency at the time of the November 2007 visit, related to not consistently providing six hours of dementia-specific education and training annually.

Monitoring Observation: A review of staff files indicated Staff #1, Staff #2 and Staff #3 had, at a minimum, six hours, of dementia-specific education documented.

- Regulatory Insufficiency: None noted.

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

During the course of this revisit, a review of the Plan of Correction submitted in response to the recertification visit completed on 11-13-07, was completed. It was determined the program did not fully implement the Plan of Correction.

Monitoring Observation: The program's Plan of Correction indicated the program planned to make corrections in the following areas: Evaluation of Tenant and Service Plans. These corrections were not fully implemented. (25.8(3))

- Regulatory Insufficiency: The program did not fully implement the Plan of Correction submitted. (25.8(3))

Dated this 25th day of June, 2008.