IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

September 23, 2008

Complaint Intake: #17394
#18814
#15920R1

Tim Hendricks, Director of Housing Operations
Oak Park Place
1381 Oak Park Place
Dubuque, IA 52002-2286

RE: I. Final Complaint, Complaint Revisit and 2nd Recertification Revisit Report – #17394, #18814 & #15920R1 – Dubuque, IA
II. Immediate Sanction - Conditional Operation
III. Civil Penalty
IV. Hearings and Appeals
V. Conclusion

Dear Mr. Hendricks:

I. Final Complaint, Complaint Revisit and 2nd Recertification Revisit Report – Oak Park Place, Dubuque, IA

Enclosed is the **Final Complaint, Complaint Revisit and 2nd Recertification Revisit 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** in the areas of: Evaluation of Tenants, Criteria for Exclusion of Tenants, Staffing and Other.

DIA is denying the Request for Reconsideration in regard to Criteria for Exclusion of Tenant due to the tenant exceeding the criteria for exclusion at the time of our on-site visit. The program did not request a waiver while the tenant's family was pursuing placement. The Plan of Correction (POC) has been accepted.

II. Immediate Sanction - Conditional Operation

As reflected in this Report, 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 of the on-site monitoring visit of July 24, 2008, Oak Park Place's Conditional Certificate, effective August 26, 2008, is being extended. The Conditional Certificate is to continue until such time as the program is in compliance, but in no case longer than August 25, 2009. The Conditional Certificate is issued as an alternative to denial, suspension or revocation pursuant to Iowa Code section 231C.10(12).

The program will be required to complete Dependent Adult Abuse (DAA) training of all remaining staff and present documentation of such to DIA. The training requirement is effective immediately based on the Department's determination pursuant to 231C.11 that an imminent danger exists for the tenants.

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 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 as related to the sanctions in accordance with 321 IAC 26.4, within 30 days of notice, by submitting a request for hearing 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

The Plan of Correction submitted, is accepted. The Request for Reconsideration is denied as explained in Section I. The Conditional Certificate and above sanctions remain. 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.

Oak Park Place is being assessed a $4,000.00 civil money penalty.

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 Complaint, Complaint Revisit and 2nd Recertification Revisit

Assisted Living Program:

Mr. Tim Hendricks, Director of Housing
Oak Park Place Assisted Living
1381 Oak Park Place
Dubuque, IA 52202-2286

Complaint Intake #: 17394
18814
15920R1

Date of Investigation:

July 24, 2008

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:

Two complaint investigations, a complaint revisit and a second recertification revisit were conducted at Oak Park Place Assisted Living on July 24, 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:	44
Current number of tenants with cognitive disorder:	2
Total Population:	46

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:	13
Current number of tenants without cognitive disorder:	1
Total Population:	14

***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, Criteria for Exclusion of Tenants, Service Plans, Medications, Nurse Review, Food Service, Staffing and Other.

The March 31, 2008 recertification revisit resulted in a fine of $2,500.00 with Regulatory Insufficiencies in the areas of: Evaluation of Tenants, Service Plans, Medications, Nurse Review and Other.

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)]

During the recertification revisit of 3-31-08, the program received regulatory insufficiencies in regard to Tenant's #1, #2 and #3, related to the program not consistently completing functional, cognitive and health evaluations within 30-days of occupancy, as needed, but not less than annually, to determine continued eligibility for the program and to determine any modifications to services needed. They also received a regulatory insufficiency for not having evaluations completed by a health or human service professional.

Monitoring Observation: Tenant #1, a 67 year old, was admitted on 4-27-07 and has a diagnosis of Parkinson's Disease. The tenant scored a seven on the Global Deterioration Scale (GDS) on 4-25-08, which indicated very severe cognitive decline. The tenant's file indicated the program appropriately completed functional, cognitive and health evaluations on 4-4-08 and 4-25-08 with a change in health status. The tenant was discharged from the program on 7-7-08.

Tenant #2, a 70 year old, was admitted on 5-12-07 and has a diagnosis of Dementia, Alzheimer's Type with Behaviors. The tenant scored a seven on the GDS on 5-13-08, which indicated very severe cognitive decline. The tenant's file indicated the program appropriately completed an annual functional, health and cognitive evaluation on 5-13-08.

Tenant #3 a 68 year old, was admitted on 9-4-07 and has diagnoses of: Osteoporosis, Dementia and Hyperlipidemia. The tenant scored a four on the GDS on 10-4-07, which indicated moderate cognitive decline. The Tenant's file indicated the program did not complete a functional, cognitive and health evaluation by May 31, 2008 as stated in their Plan of Correction (POC). The functional and health evaluations were not dated or signed by the Registered Nurse (RN).

- Regulatory Insufficiency: The program did not evaluate a tenant's functional, cognitive and health status, as needed, to determine the tenants' continued eligibility for the program and determine any modifications to the services needed. (25.23(2))

B. Criteria for exclusion of tenants - Program does not admit or retain tenants that require a higher level of care, unless a written exception has been applied for and approved. [321 IAC 25.23(3); 25.24]

Complaint Allegation #17394: It is alleged there are tenants who are a two person transfer more than 50% of the time.

Complaint Allegation #18814: It is alleged Tenant #8 has been drinking and falling several times daily for the past six weeks.

Monitoring Observation: Tenant #8, an 89 year old, was admitted on 10-12-07 and has diagnoses of: High Cholesterol, Atrial Fibrillation and Cardiac Arrhythmia. Incident reports from 6-15-08 through 7-23-08 indicated the tenant had either fallen, was lowered

to the floor when staff assisted the tenant with transfer, or was found on the floor when the tenant tried to ambulate independently, on at least 13 separate occasions. Staff #1, #7, #8 and #9 indicated the tenant was a routine two person assist with transfer due to the tenant's instability. Staff #1 indicates that some of the falls may be due to the tenant's intoxication. Staff #7 and Staff #9 indicate that the tenant's falls are due to the tenant's unsteadiness and intoxication. Staff #8 indicates that the tenant's falls may be related to other medical conditions. The tenant's attending physician stated the tenant has fallen multiple times and has required routine two person assist with transfer, ambulation and evacuation, for the past month.

- Regulatory Insufficiency: The program did not consistently exclude a tenant who requires routine two-person assistance with transfer, ambulation or evacuation. (25.23(3))

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

During the recertification revisit of 3-31-08, the program received two regulatory insufficiencies in regard to Tenant's #1, #2 and #3 related to not consistently updating a tenant's service plan when a tenant needed personal or health-related care, as needed, by a multi-disciplinary team that consists of no fewer than three individuals, including a health professional and other staff appropriate to meet the needs of the tenant, in consultation with the tenant and at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative, and for not consistently developing service plans that identified tenant needs and the tenants' requests for assistance and expected outcomes.

Monitoring Observation: Tenant #1's service plan was appropriately updated on 4-4-08 and 4-25-08 with a change in health status.

Tenant #2's service plan was appropriately updated on 5-13-08.

- Regulatory Insufficiency: None noted.

D. 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]

Complaint Allegation #17394: It is alleged there are numerous medication errors.

Monitoring Observation: A review of Medication Administration Records for the month of July 2008, indicated medications were appropriately documented by the program.

During the recertification revisit of 3-31-08, the program received a regulatory insufficiency in regard to Tenant's #1, #2, #6 and #7 related to not consistently administering medications in accordance with the minimum standards of nursing practice.

Monitoring Observation: Tenant #1 was discharged from the program on 7-7-08 and Tenant #7 was discharged on 6-19-08.

Tenant #2's MARs for 7-1-09 through 7-24-08 indicated the medications were appropriately administered by the program.

Tenant #6's MARs for 6-1-08 through 6-30-08 and 7-1-08 through 7-24-08, indicated the medications were appropriately administered by the program.

- Regulatory Insufficiency: None noted.

E. 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]

During the recertification revisit of 3-31-08, the program received a regulatory insufficiency in regard to Tenant's #1, #2 and #3, related to staff not consistently assessing and documenting the health status of each tenant, making recommendations and referrals as appropriate and monitoring the progress on previous recommendations, at least every 90 days, or if there are changes in health status.

Monitoring Observation: Tenant #1 was discharged from the program on 7-7-08.

Tenant #2 and #3's file indicated the RN completed 90-day nurse reviews and completed a nurse review with a possible change in health status.

- Regulatory Insufficiency: None noted.

F. 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]

Complaint Allegation #17394: It is alleged the memory care unit is not properly staffed.

Monitoring Observation: Staff #1, #7, #8, and #9 indicated there was five direct care staff available on days, four to six staff on evenings and two to three staff available at night. They stated the program, including the memory care unit, had sufficiently trained staff to meet the tenants' needs. Staff schedules for June and July 2008 confirmed statements made by staff regarding staffing numbers on each shift.

- Regulatory Insufficiency: None noted.

Complaint Allegation #17394: It is alleged staff are doing Insulin draws.

Monitoring Observation: The RN stated only an RN draws up Insulin for tenants. Staff #1, #7 and #8 stated only RNs draw up Insulin. Staff #9 stated another staff person other than an RN has drawn up Insulin.

- Regulatory Insufficiency: None noted.

Complaint Allegation #18814: It is alleged Tenant #8 has Methicillin - resistant Staphylococcus Aureus (MRSA) and this is a concern as staff do not know if the MRSA is active or not. During one fall, the tenant was bleeding and blood soaked through his/her clothes and onto a staff person's skin.

Monitoring Observation: Staff #1, #7 and #8 stated they were given special instructions on caring for Tenant #8, who has MRSA. Staff #9 was not given special instructions on caring for tenants with MRSA, but does not provide wound care to Tenant #8. Program documents indicated six direct care staff were given instructions on MRSA and all staff were made aware that standard precautions remained unless working directly with tenants with MRSA.

- Regulatory Insufficiency: None noted.

The program received two regulatory insufficiencies related to complaint #15920 dated 2-27-08. The program did not consistently provide sufficiently trained staff at all times to fully meet the tenant's identified needs by not having all staff complete Dependent Adult Abuse (DAA) training and for not establishing and maintaining a safe and homelike environment for individuals of all income levels who require assistance to live independently, but who do not require health-related care on a continuous twenty-four hour per day basis.

Monitoring Observation: Program documents indicated Staff #1A was terminated from employment effective 1-24-08.

Program records indicated a training session on DAA was held on 2-14-08 with 14 staff in attendance. The program employs over 48 staff. Program records indicated eight staff were given DAA certificates in June and July of 2006 and two staff had certificates dated in June and July of 2008. Staff #10, who is the Administrative Assistant, stated the remaining staff who didn't attend the staff meeting of 2-14-08 reviewed the handouts used at the staff meeting and completed a post test. The RN stated to the monitor not all staff attended the staff meeting and did not have the handouts that were given to the monitor as handouts used during the staff meeting.

- Regulatory Insufficiency: The program did not consistently provide sufficiently trained staff at all times to fully meet the tenant's identified needs. (25.23(1))

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

During the recertification revisit of 3-31-08, the program received a regulatory insufficiency in regard to not fully implementing the Plan of Correction (POC).

Monitoring Observation: The program's POC, received on 4-22-08, related to Complaint #15920, indicated the program planned to make corrections by having all staff re-educated regarding DAA and Mandatory Reporter requirements by May 31, 2008. The corrections were not fully implemented.

The program's POC, received on 4-22-08, related to Recertification Revisit Report of 3-31-08, indicated the program planned to make corrections in the following areas:

Evaluation of Tenant, Service Plans and Nurse Review. These corrections were not fully implemented.

- Regulatory Insufficiency: The program did not fully implement the Plan of Correction submitted. (26.2(6)a))

Dated this 23rd day of September, 2008