IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

December 22, 2008

Complaint Intake: #20753-C

Mark Anderson, Interim Director
Summit Pointe Senior Living
3505 English Glen Avenue
Marion, IA 52302-4711

RE: I. Final Complaint Investigation Report - #20753-C
II. Immediate Sanction – Conditional Operation
III. Civil Penalty
IV. Hearings and Appeals
V. Conclusion

Dear Mr. Anderson:

I. Final Complaint Investigation Report - #20753-C – Summit Pointe Senior Living, Marion, IA

Enclosed is the **Final Complaint Investigation Report - #20753-C** 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 a **Regulatory Insufficiency** in the area of Food Service.

The Department of Inspections and Appeals (DIA) has reviewed the Plan of Correction (POC) and the Request for Reconsideration in response to the Report dated November 13, 2008. Based on the information provided, DIA denies the Request for Reconsideration as it relates to the uncooked chicken. At the time of the November visit; 45% of the tenants indicated the chicken was served raw, at a previous visit, tenants had indicated that the chicken was "pink and bloody". You submitted information that explained that pink tinged chicken may be fully cooked; however, this does not explain how chicken would still be "bloody". DIA accepts the Request for Reconsideration as it related to the program not ensuring that at least one staff person had a state approved food safety course. The Plan of Correction is accepted and the final report is attached.

The program is not allowed to request a reconsideration of the fine; however, you can request an appeal of the fine. If you wish to appeal the fine please send a letter to DIA indicating your intent, within 30 days of receiving this letter.

II. Immediate Sanction - Conditional Operation

As reflected in the Final 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 November 13, 2008, Summit Pointe continues with their Conditional Certificate, effective April 11, 2008.

Other previous sanctions discontinued.

Amended sanctions include only a continuance of the Conditional Certificate, effective April 11, 2008 and the Civil Money Penalty.

III. Civil Penalty

If no appeal is requested within 30 days of receipt of this Complaint Investigation Report the civil penalty obligation, in the amount of two thousand ($2.000.00) 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

The Request for Reconsideration submitted has been accepted in part and denied in part, as stated previously. The Plan of Correction is accepted. Sanctions continue as stated above. 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 in regard to these matters, please contact me at (515) 281-5077.

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 #:** 20753-C

Mark Anderson, Interim Director
Summit Pointe Senior Living Community
3505 English Glen Ave
Marion, IA 52302-4711

Date of Investigation:

November 13, 2008

Monitor(s):

Lincoln Newsom, RN

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 Summit Pointe Senior Living Community on November 13, 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:	92
Current number of tenants with cognitive disorder:	1
Total Population:	93

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:	11
Current number of tenants without cognitive disorder:	1
Total Population:	12

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Accreditation Status –Not Applicable

Complaint History – There were Regulatory Insufficiencies this certification period in the areas of: occupancy agreement, evaluation of tenant, tenant documents, service plan, nurse review, food service, staffing, dementia-specific education for program personnel, transportation, record checks and other.

The Initial Certification Monitoring Report conducted on October 22, 2007 resulted in Regulatory Insufficiencies in the following areas: occupancy agreement, evaluation of tenant, tenant documents, service plan, nurse review, food service, staffing, dementia-specific education for program personnel, transportation, record checks and other.

The Complaint Investigation and Initial Certification Revisit conducted on February 18, 19, 20 & 21, 2008, resulted in: issuance of a Conditional Certificate, effective April 11, 2008. Additional requirements include the program submitting documentation of staff training in regard to fire safety and documentation of all future completed fire drills to DIA, completion of monthly nurse review in order to determine changes in tenant conditions and to follow through with appropriate assessments and service plans in regard to those changes and the administrator and nurse are to attend management training and provide documentation of such to DIA. A $5,500.00 civil penalty was also issued. Regulatory Insufficiencies included: occupancy agreement, evaluation of tenant, criteria for exclusion of tenant, service plan, medications, nurse review, food service, staffing, dementia – specific education for program personnel, life safety, activities and other.

The Complaint Investigation Revisit and 2nd Initial Certification Revisit conducted on June 23 & 24, 2008, resulted in: continuation of the Conditional Certificate, effective April 11, 2008. Additional requirements include the program submitting documentation of staff training in regard to fire safety and documentation of all future completed fire drills to DIA, completion of monthly nurse review in order to determine changes in tenant conditions and to follow through with appropriate assessments and service plans in regard to those changes and the administrator and nurse are to attend management training and provide documentation of such to DIA. A $1,500.00 civil penalty was also issued. The Regulatory Insufficiencies included: evaluation of tenants, service plans, medications, staffing, life safety, structural requirements and other.

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

A. Food Service – Program shall provide or coordinate with other community providers to provide hot or other appropriate meal(s) at least once a day or make arrangements for the availability of meals. Menus shall be appropriately planned. If applicable, therapeutic diets shall meet all requirements. Food preparation personnel shall meet all requirements. [321 IAC 25.32]

Complaint Allegation: The facility serves raw chicken, there has not been soap for the dishwasher for a month and the stove is dirty.

Monitoring Observation: Staff #1 stated the dishwasher has currently been out of soap for two to three days. He indicates this also occurred about three to four weeks ago and there was no soap for one to two weeks on that occasion. This has occurred about four to five times and, on average, there is no soap for three to four days at a time. Staff # 1 states he is told the dishwasher is running out of soap because there is not enough money in the budget. He also states the Chef has used outdated food items and he has seen, on two separate occasions, raw chicken being served. The last time was two weeks ago. Staff #1, stated the stove is normally filthy, but it was cleaned yesterday due to scheduled maintenance that occurs every two to three months. He also stated the Chef uses dirty dishwater to wash his hands and that there has been raw fish sitting on a tray, partially uncovered, for up to 24 hours.

Staff #2, stated there has been no soap for the dishwasher for the past two days, but there have been times it was longer and there has been a least three other occurrences. The Chef has used outdated food, used hamburger from a freezer that wasn't working and had a thermometer that stated 76˚, and placed chicken strips into the same freezer the next day. The Chef told staff #2 it was a convenient place. The Chef has used the designated hand washing sink to obtain a mouthful of water, swished his mouth with the water and spit it back into the sink. He has served raw, bloody chicken a couple of times on the buffet line, most recently this was about a week ago. A few days ago, the Assistant Chef placed an unopened can of soda, obtained from her car, into the ice in the ice machine.

Staff #3, stated she was aware of two times the dishwasher has been with out soap. Frozen fish and chicken were placed in a sink and hot water run over them to thaw them for dinner, and bloody, raw chicken has been served five to six times. Silverware is not washed as it should be and the Chef works with food with uncleaned hands. Staff #3 stated every time she eats at work she develops diarrhea.

On inspection of the kitchen, it was observed there was no soap for the dishwasher, the cooler contained a tray of raw beef with blood sitting in it, an almost empty box of lemons with two lemons with mold, other items not completely covered and wet and dry blood on the cooler floor. Muffins and taco chips were sitting in uncovered containers on top of the garnishment table. Staff # 2 and # 3, stated they had been there for three to four days.

In a tenant meeting during the previous recertification visit on 10-15-08, tenants stated chicken had been served "pink and bloody". In a tenant meeting during this visit, 45 % of the 56 tenants stated they had been served raw chicken.

- Regulatory Insufficiency: The program did not meet the standards of state and local health laws and ordinances pertaining to the preparation and serving of food, including the requirements imposed under Iowa Code chapter 137F.

B. 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: The facility is generally dirty, including the bathrooms.

Monitoring Observation: Two of the first floor men's bathrooms were observed and one female bathroom. All bathrooms had clean floors and toilets, had hot water, soap, and paper towels. The female bathroom also contained a covered receptacle near the toilet.

- Regulatory Insufficiency: None noted.

Dated this 22nd day of December, 2008.