IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

DEMAND LETTER
CERTIFIED

Complaint: #24733-C
24679-C
25023-C

October 26, 2009

K'Lee Lathum, Administrator
Shores at Pleasant Hill Assisted Living
1500 Edgewater Drive
Pleasant Hill, IA 50327-0921

RE: I. Final Complaint Investigation Report, Shores at Pleasant Hill Assisted Living, Pleasant Hill, IA
II. Appeals/Hearings
III. Civil Penalty
IV. Conclusion

Dear Ms. Lathum :

I. Final Complaint Investigation Report, Shores at Pleasant Hill Assisted Living, Pleasant Hill, IA

Enclosed is the **Final Complaint Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code 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: Medications and Staffing. Shores at Pleasant Hill Assisted Living ("Program") is being assessed a $1,000.00 civil penalty.

DIA has reviewed the Plan of Correction (POC) and the Request for Reconsideration in response to the complaint investigation Report dated August 25 & 26, 2009. Based on the information provided, DIA accepts the Request for Reconsideration for Dementia-Specific Education for Program Personnel; however, denies the Request for Reconsideration as it relates to: Medications and Staffing. The additional documentation that was submitted did not indicate the program was in compliance with the regulations at the time of the on-site. The Plan of Correction that was submitted is accepted.

II. Appeals/Hearings

The Program may appeal the DIA decision in accordance with 321 Iowa Administrative Code rule 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 process.

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 six hundred fifty dollars ($650.00) within 30 business days after the receipt of this demand letter.

IV. Conclusion

The Program is being assessed a $1,000.00 civil penalty. 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 letter and report, please contact your Certification Coordinator, Connie Schaffer, at 515-281-5003.

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:

K'Lee Lathum, Administrator
Shores at Pleasant Hill Assisted Living
1500 Edgewater Drive
Pleasant Hill, IA. 50327-0921

Complaint Intake: #24733-C
24679-C
25023-C

Date of Investigation:

August 25 & 26, 2009

Monitor(s):

Hal L. Chase, RN BSN MPH
Rose Boccella, 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 visit was conducted at Shores at Pleasant Hill Assisted Living on August 25 & 26, 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:	44
Current number of tenants with cognitive disorder:	3
Total Population of GPP:	47

Dementia Specific Program (DSP)* – A program that is dementia specific and provides specialized care in a dedicated setting.

Total Population of DSP:	26
Total Census of ALP:	73

***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 have been substantiated Regulatory Insufficiencies in the areas of: Evaluation of Tenants, Service Plan, Medications, Nurse Review, Staffing, Structural Requirements and Other during this certification period.

The complaint history during this certification period includes the complaint investigations of: September 24 and 25, 2008 for Complaint investigation of #19359-C, 19544-C and 19778-I with a Regulatory Insufficiency in the area of Medications, which resulted in a $500.00 fine.

October 29, 2008, for Complaint investigation of #20566-I with Regulatory Insufficiencies in the areas of: Medications and Staffing, which resulted in a $2,500.00 fine.

January 8, 2009, for the first revisit on Complaints #19359-C, 19544-C, 19778-I and 20566-I with Regulatory Insufficiencies in the areas of: Medications, Structural Requirements and Other, which resulted in a $2,500.00 fine.

February 23, 2009, for Complaint investigation of #21747-C with no substantiated Regulatory Insufficiencies at this investigation visit.

June 10, 2009, for Complaint investigation of #23582-C with Regulatory Insufficiencies in the Areas of: Evaluation of Tenants, Service Plan and Nurse Review.

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

A. 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#24733-C: It is alleged Tenant #1 was to receive medication monitoring which included staff to watch the tenant take his/her medication. It is alleged the tenant's spouse found medication that had not been taken for the last two afternoons. It is alleged for the past couple of months staff would remind the tenant when finished with meals when the tenant returned to his/her apartment.

- Monitoring Observation: Tenant #1, a 59 year old, was admitted on 12-27-07 and has diagnoses of: Frontal Temporal Dementia, Diabetes Mellitus and Essential Hypertension. The tenant was staged at 1.6 on the GDS on 7-6-09, which indicated very mild cognitive decline. The tenant's service plan of 5-21-09 indicated the tenant has a history of forgetfulness and confusion secondary to Dementia. Tenant #1's Medication Administration Record (MARs) for May through July 1, 2009 indicated medications were recorded as a medication reminder with the medication box located on the kitchen table. The service plan of 5-21-09 indicated staff were to provide verbal reminders for medications at ordered times and to monitor the tenant's behavior and notify the RN of any concerns. Program documentation indicated tenants who received medication reminders included frequency of supervision of the task. Staff #1 stated she has given routine reminders to tenants. Medication reminders included giving the tenant water, watching them take their medications and document they had taken their medication. Staff #2 stated she did not watch Tenant #1 take his/her medications. Staff #3 stated she was trained by the Registered Nurse (RN) to use a task sheet, would "always watch them" (tenants) take their medications. "Sometimes" Tenant #1 would be in bed so she wouldn't always watch him/her take medications. She stated she would let the tenant get up and get dressed and then go back to the room. She stated the program tells staff to watch tenant's take their pills for those tenants who received medication reminders. The RN stated staff give reminders only and they do not watch the tenant take their medications.

- Regulatory Insufficiency: The program did not consistently provide the administration of medications 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 medication 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 (a), 655-6.2 (5) (e) (152)

B. 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 #24679-C: It is alleged Staff #1 hit Tenant #2 on the back when providing health related cares.

- Monitoring Observation: Tenant #2, an 88 year old, was admitted on 4-1-09 and has diagnoses of: Lupus, Arthritis and Macular Degeneration. Program documentation from the RN dated 7-29-09 indicated an investigation was initiated on 7-29-09 when the tenant told the RN that three weeks earlier, the tenant had told Staff #1 he/she was not feeling well, had a fever and was shivering. Staff #1 reportedly slapped the tenant on the back and said "you don't have a fever, you're fine," and left the tenant's room. The tenant reportedly was cold, got under some covers and while doing so rolled over the telephone. Staff #1 came back into the room and stated "I told you! You don't have a fever so you don't have to be calling us!"

  Program documentation indicated they notified the Department of Human Services (DHS) on 7-31-09 of suspected dependent adult abuse. On 7-31-09 DHS notified the program and indicated the tenant is not a dependent adult. The tenant's service plan of 4-30-09 indicated the tenant was independent with personal and health related cares and is not a dependent adult.

  The tenant stated Staff #1 hit him/her on the back of his/her neck with a clapping motion and told the tenant he/she did not have a fever and then left the tenant's apartment. The tenant indicated he/she did not know the staff person's name but gave a detailed description of the staff person. The RN identified the staff person from tenant's description of the staff person.

  Program documentation indicated Staff #1 was hired on 12-18-06 and was terminated from employment on 8-10-09. The RN interviewed Staff #1 on 7-31-09 regarding the incident described above. Staff #1 indicated she did not know what the RN was talking about. Staff #1 indicated she did not know of the incident or who the tenant was that was allegedly struck by her. Staff #1 called the RN one-half hour later and indicated that if the tenant was Tenant #2, the tenant told Staff #1 he/she was in pain and asked for a pain pill. Staff#1 told the tenant there was nothing she could give the tenant and the tenant needed to make an appointment to see his/her physician. The tenant pulled the bathroom call light and another staff person called the tenant's apartment. The staff person did not provide the care needed to fully meet the tenant's identified needs.

- Regulatory Insufficiency: The program did not have sufficiently trained staff available at all times to fully meet tenants' identified needs. (25.33(1))

Complaint Allegation #24733-C #25023-C: It is alleged the Administrator walked away from Tenant #1 outside of a local department store.

- Monitoring Observation: An incident of 7-1-09 indicated the Administrator participated in an outing with tenants, including Tenant #1 at a local mall. Tenant #1 had a diagnosis of Frontal Lobe Dementia. The Activities Director stated the tenant had Dementia with behavior outbursts three times monthly which would vary in degree and 90% of time the tenant was re-directable. The incident report indicated Tenant #1 "was completely out of control" at the mall. The Activities Director stated,

she was fearful for her safety. The tenant was angry and she would have turned the van around to go back to the program but the Administrator was with her. The Activities Director stated they stopped at the designated point at the mall, unloaded the van and she and the Administrator went into a different direction from the tenants with the understanding they would meet the tenants at a certain time as the same location. The Activities Director stated she and the Administrator arrived back at the designated area and the tenants were there and ready to board the van. The Activities Director stated Tenant #1 began yelling as she went to the parking lot to get the van. When she arrived at the van the Administrator started coming to the van and the tenant was yelling at her. The tenant was standing in the doorway of the store screaming, red faced and not making much sense. The Administrator stated the tenant was swearing, she felt embarrassed and walked out of the mall where the tenant had been and met the Activities Director. The day of incident the tenant had no control, staff could not reason with him/her and the tenant was not re-directable. The RN stated the Administrator was an integral part of the "tenant's life."

During an interview, a social worker from the local hospital where Tenant #1 was admitted stated she remembered attending a meeting on 7-6-09 with the program RN, the tenant and the tenant's spouse. The social worker stated the RN began the meeting by "aggressively confronting the tenant and talked about the conditions the tenant had to meet in order to return to the program." The conditions were: the tenant had to make a "public apology" to the Administrator, the tenant's room was a "health hazard, and had to be kept clean and the tenant would not be allowed to ride the van with the rest of the community and would not be allowed to go on any outings. The social worker stated, the RN stated the program did not have "a lot of experience in working with that diagnosis," referring to the tenant's diagnosis of Frontal Temporal Dementia.

- Regulatory Insufficiency: The owner or management corporation of the program did not ensure all personnel employed by or contracting with the program receive training appropriate for assigned tasks and target population. (25.33)(5))

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

Complaint Allegation #24679-C: It is alleged Staff #1 hit Tenant #2 on the back when providing health related cares. The program notified the Department of Human Services of suspected dependent adult abuse.

- Monitoring Observation: Tenant #2, an 88 year old, was admitted on 4-1-09 and has diagnoses of: Lupus, Arthritis and Macular Degeneration. Program documentation from the RN dated 7-29-09 indicated an investigation was initiated on 7-29-09 when the tenant told the RN that three weeks earlier the tenant had told Staff #1 he/she was not feeling well, had a fever and was shivering. Staff #1 reportedly slapped the tenant on the back and said "you don't have a fever, you're fine," and left the tenant's room. The tenant reportedly was cold, got under some covers and while doing so rolled over the telephone. Staff #1 came back into the room and stated "I told you! You don't have a fever so you don't have to be calling us!"

Program documentation indicated they notified the Department of Human Services on 7-31-09 of suspected dependent adult abuse. The tenant's service plan of 4-30-09 indicated the tenant was independent with personal and health related cares and is not a dependent adult.

- Regulatory Insufficiency: None noted.

Dated this 26th day of October, 2009.