

INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

DEAN A. LERNER, DIRECTOR

PATTY JUDGE
LT. GOVERNOR

**DEMAND LETTER
CERTIFIED
Complaint Intake: #28042-C**

July 8, 2010

Brent Olsen, Administrator
Whispering Willows Assisted Living
601 Dawn Avenue
Fredericksburg, IA 50630-1033

**RE: I. Final Complaint Investigation Report
II. Civil Penalty
III. Appeals/Hearings
IV. Conclusion**

Dear Mr. Olsen:

**I. Final Complaint Investigation Report – Whispering Willows Assisted Living,
Fredericksburg, IA**

Enclosed is the **Final Complaint Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapters 481—67 and 481—69. The Report notes Regulatory Insufficiency in the area(s) of: Structural Requirements. **Whispering Willows Assisted Living** ("Program") is being assessed a \$500.00 civil penalty.

DIA has reviewed both your Plan of Correction (POC) and Request for Reconsideration in response to the Final Complaint Investigation Report. Based upon a complete review of the Report and your actions to correct the identified Regulatory Insufficiencies, DIA accepts your POC.

Based on the information provided in the Request for Reconsideration, DIA denies your request as it relates to Civil Penalty. While DIA does not grant a Request for Reconsideration on Civil Penalty, the Program can appeal the Civil Penalty through the Appeals/Hearings process as stated below.

LUCAS STATE OFFICE BUILDING, 321 EAST 12TH STREET, DES MOINES, IOWA 50319-0083

ADMINISTRATION
(515) 281-5457
FAX: (515) 242-6863

ADMINISTRATIVE HEARINGS
(515) 281-4843
FAX: (515) 281-4477
Telephone Number for the Hearing Impaired: (515) 242-6515

HEALTH FACILITIES
(515) 281-4115
FAX: (515) 242-5022

INVESTIGATIONS
(515) 281-5714
FAX: (515) 242-6507

II. Civil Penalty

If, within 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 civil penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to IAC rule 481-67.12(3)d. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send a cover letter to the attention of **Connie Schaffer** and remit the civil penalty assessed by check or money order in the amount of three hundred twenty-five dollars (\$325.00) within 30 business days after the receipt of this demand letter.

III. Appeals/Hearings

The Program may appeal the DIA decision in accordance with IAC rule 481-67.13 within thirty (30) days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481-10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of notice.

IV. Conclusion

The Program is being assessed a \$500.00 civil penalty. The Plan of Correction (POC) submitted on June 7, 2010, has been reviewed and will constitute the final POC related to the on-site visit of June 16, 2010.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal the final findings, the Program may do so within 30 days of this letter.

If you have any questions in regard to this letter and enclosed Report, please contact your Certification Coordinator, Connie Schaffer, at 515-281-5003.

Sincerely,



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 #: 28042-C

Brent Olsen, Administrator
Whispering Willows Assisted Living
601 Dawn Avenue
Fredericksburg, Iowa 50630-1033

Date of Investigation:

June 16, 2010

Monitor(s):

Joyce Kix, 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. IAC r. 481-67.10(5). 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 481 IAC chapter 69 that: serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site visit was conducted at Whispering Willows Assisted Living on June 16, 2010. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* – A program that does include a Dementia Specific unit, but may include have tenants with cognitive disorder.

Current number of tenants without cognitive disorder: 9

Current number of tenants with cognitive disorder: 2

Total Population of GPP: 11

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

Total Population of DSP: 3

Total Census of ALP: 14

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

Program History – There has been a substantiated Regulatory Insufficiency in the area of Service Plan during this recertification period.

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

A. Structural requirements

Complaint Allegation: It is alleged a general bathroom of a dementia specific unit had unlocked cabinets which contained cleaning products.

- Monitoring Observation: The Memory Care unit of the program identified three tenants with Global Deterioration Scale (GDS) score of "4" or above indicating moderate cognitive decline and the general population had two tenants with a GDS score of "4".

Tour of the program on 6-15-10 at 11:00 a.m. revealed the following:

1. Found unsecured in the community bathroom of the memory care unit and posing the potential threat of accidental ingestion:
 - a. One spray bottled labeled only with the handwritten name PH7 Ultra Disinfectant
 - b. One container of HB Quat Disinfectant labeled, Mild eye and skin irritant and Keep Out of Reach of Children
 - c. One bottle of Soft Scrub labeled Keep Out of Reach of Children
2. Found in the kitchen area cabinet unsecured under the sink and posing the potential threat of accidental ingestion:
 - a. One bottle of Soft Scrub Disinfectant labeled May cause eye irritation
 - b. Two bottles of Soft Scrub Deep Clean labeled Keep Out of Reach of Children
 - c. One tub of powder labeled only with Silver Soak written on it
 - d. One bottle of Palmolive ECO labeled Avoid contact with mouth and Keep Out of Reach of Children
 - e. One spray bottle labeled with the handwritten words, "Sanitizer for wiping tables"
 - f. One gallon jug of Food Contact Quaternary Sanitizer labeled Keep Out of Reach of Children
 - g. One gallon milk jug with clear liquid inside labeled only as, "Sanitizer for wiping off tables"
3. Found on housekeeping cart unsecured and unobserved at 11:15 in 200 hall of the general population unit and posing the potential threat of accidental ingestion:
 - a. One bottle of Soft Scrub labeled Keep Out of Reach of Children
 - b. One spray bottle with handwritten words, "PH7 Ultra"
 - c. One bottle of Resolve Professional Spot and Stain cleaner labeled Keep Out of Reach of Children
 - d. One bottle of Clorox Toilet Bowl cleaner labeled Danger Corrosive, Keep Out of Reach of Children
 - e. One can of Clorox Disinfecting spray labeled Keep Out of Reach of Children
 - f. One can of Furniture Polish labeled Keep Out of Reach of Children
4. Found in the unlocked laundry room of the general population unit at 11:35 a.m. and posing the potential threat of accidental ingestion:
 - a. One gallon plastic jug of Clorox Bleach labeled Danger Corrosive and Keep Out of Reach of Children
 - b. One bottle of Shout laundry spray labeled Caution Eye and Skin Irritant and Keep Out of Reach of Children

- Regulatory Insufficiency: General requirements: The building and grounds shall be well-maintained, clean, safe and sanitary. (IAC r. 481-69.35(1) b.)

Dated this 8th day of July, 2010.