IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

DEMAND LETTER
CERTIFIED
Complaint Intake #: 30839-C
31411-C

December 15, 2010

Kris Ward, Director
Fountains Assisted Living
3752 Thunder Ridge Road
Bettendorf, IA 52722

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

Dear Ms. Ward:

I. Final Complaint Investigation Report – Fountains Assisted Living, Bettendorf, 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 Insufficiencies in the area(s) of: Criteria for Exclusion of Tenants, Staffing and Tenant Rights. **Fountains Assisted Living** ("Program") is being assessed a $2,000 civil penalty.

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 **Tamara Halvorson** and remit the civil penalty assessed by check or money order in the amount of thirteen hundred dollars ($1300) 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 $2,000 civil penalty. The Plan of Correction (POC) submitted on December 10, 2010, has been reviewed and will constitute the final POC related to the on-site visit of October 25 and 26, 2010. The Request for Reconsideration has been reviewed and is accepted for Tenant #2.

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, Tamara Halvorson, at 515/281-5721.

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:

Kris Ward, Director
Fountains Assisted Living
3752 Thunder Ridge Road
Bettendorf, IA 52722

Complaint Intake #: 30839-C
31411-C

Date of Investigation:

October 25 and 26, 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 Fountains Assisted Living on October 25 and 26, 2010. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* – A program that does not include a Dementia Specific unit, but may have tenants with cognitive disorder.

Current number of tenants without cognitive disorder:	42
Current number of tenants with cognitive disorder:	15
Total Population of GPP:	57

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

Total Population of DSP:	14
Total Census of ALP:	71

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

Program History – The program received regulatory insufficiencies in the areas of service plan and nurse review during this certification period.

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

A. Criteria for Exclusion of Tenants

Complaint Allegation #30839-C: It was alleged that a tenant was a danger to others.

- Monitoring Observation: Tenant #3, a 77 year old, was admitted 12-10-2009 with diagnoses of: Facial Droop, Dementia, Mild Memory Loss, Hyperlipedemia, Depression, and Prostate Cancer. The Global Deterioration Scale (GDS) documented the tenant at 5 which indicated moderately severe cognitive decline. The tenant resided in a secured dementia unit. The Clinical note dated 8-12-10 documented the tenant became angry and exhibited signs and symptoms of agitation. Another clinical note documented the tenant experienced another episode of agitation on 7-9-10 where he needed to be redirected by staff. An incident report of 10-24-10 documented the tenant followed another tenant and got mad and tried to hit the other tenant. Staff intervened and Tenant #3 hit the staff three times in the chest and stomach and then put his/her hands around the staff's throat.

  Staff #4 stated that about 2 weeks ago, Tenant #3 got agitated with her and charged toward her. Another tenant stepped in and put up his/her fists. Staff intervened but Tenant #3 followed the staff member for an hour. Tenant #3 again got mad when staff provided cares to another tenant that he/she thinks is his/her mother and stood outside the door. Another staff member stood at the door to stop Tenant #3 from entering.

  On 10-25-10 at 4:48 pm, the monitor observed Tenant #3 approach another tenant with raised fists and threaten, "Next time I'll floor you." Staff intervened and took Tenant #3 off the unit.

  The service plan of 10-8-10, lacked direction for staff and interventions in the event the tenant became agitated. Staff #1 stated that Tenant #3 had gotten angry but had been redirected. With at least three documented incidents and one observed incident on 10-25-10 when the tenant became aggressive towards another tenant, it is determined Tenant #3 exceeds the level of care criteria required for assisted living.

- Regulatory Insufficiency: A program shall not knowingly admit or retain a tenant who: c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who: (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or (2) Displays behavior that places another tenant at risk. (IAC r. 481-69.23(1) c. (1) and (2))

- Regulatory Insufficiency: A program shall not knowingly admit or retain a tenant who: b. Requires routine, two-person assistance with standing, transfer or evacuation. (IAC r. 481-69.23 (1) b.)

B. Tenant Documents

Complaint Allegation #30839-C: It was alleged that physician's orders were transcribed on the computer and not on paper.

- Monitoring Observation: The program policy for medication administration directed staff to administer medications using the computer medication administration record (MAR) for reference and initial electronically. The accuracy of transcription of orders is double-checked by licensed personnel.

  Staff #5 stated that medication administration is completed using the computer MAR for reference.

  The program uses electronic documentation. The correct current orders would be found using the computer MAR.

- Regulatory Insufficiency: None noted.

C. Medications

Complaint Allegation #30839-C: It was alleged that medication count was not accurate.

- Monitoring Observation: The narcotic count sheets for tenant #1 and #7 were reviewed. The counts were found to be accurate.

- Regulatory Insufficiency: None noted.

D. Staffing

Complaint Allegation #31411-C: It was alleged that staff were not providing cares.

- Monitoring Observation: Tenant #4, a 93 year old, was admitted 2-11-10 with diagnoses of: Dementia, Osteoporosis, Deep Vein Thrombosis and Hypertension. The GDS of 5 indicated moderately severe cognitive decline. The tenant resided in a secured dementia unit. A clinical note dated 3-11-10 documented the tenant was to be toileted every two hours and as needed. The service plan of 7-14-10 directed assistance of one staff required for toileting.

  Continuous observations by the monitor on 10-25-10 from 12:30 pm to 6:39 pm are as follows: (Two to three staff members were present at all times.)

  1. 12:30 pm Tenant #4 seated in dining room chair finishing lunch.
  2. 1:10 pm Tenant #4 remained seated at the dining room table
  3. 2:00 pm Tenant #4 remained seated at dining room table
  4. 3:32 pm Tenant #4 remained seated at dining room table
  5. 4:15 pm Tenant #4 remained seated at dining room table with head bent over the table sleeping
  6. 4:30 pm Tenant #4 seated at dining room table served evening meal
  7. 5:00 pm Tenant #4 eating independently

8. 5:15 pm Tenant #4 remained seated at dining room table
9. 5:30 pm Tenant #4 remained in same position at dining room table in chair
10. 6:05 pm Tenant #4 remained seated at dining room table occasionally taking a bite of cold food.
11. 6:25 pm The program nurse arrived at the unit and reported the program does not use task sheets but the expectation is that the tenants are to be toileted every two hours or so
within 30 minutes.
12. 6:39 pm Monitor advised the program nurse that Tenant #4 had remained at the dining room table without repositioning or toileting from 12:30 pm to current time. The nurse advised staff to toilet the tenant. Staff assisted the tenant to stand and ambulate with walker. The tenant's clothing was wet and tenant stated, "I've got pee all over my back."

Tenant #5, a 77 year old, was admitted 8-3-10 with diagnoses of: Cataracts, Prostate Cancer, Osteopenia, and Alzheimer's Disease. The program documented a GDS of 6 which indicated severe cognitive decline. The tenant resided in a secured dementia unit. The service plan dated 10-12-10 directed for staff assistance of one for toileting.

Continuous observations of the monitor on 10-25-10 from 12:30 pm to 6:39 pm are as follows:

1. 12:30 pm Tenant #5 seated in dining room chair finishing lunch.
2. 1:10 pm Tenant #5 remained seated at the dining room table
3. 2:00 pm Tenant #5 remained seated at dining room table
4. 3:32 pm Tenant #5 remained seated at dining room table
5. 4:15 pm Tenant #5 remained seated at dining room table
6. 4:30 pm Tenant #5 seated at dining room table served evening meal
7. 5:00 pm Tenant #5 eating independently
8. 5:15 pm Tenant #5 remained seated at dining room table
9. 5:30 pm Tenant #5 remained in same position at dining room table in chair
10. 6:00 pm Tenant #5 remained seated at dining room table
11. 6:25 pm The program nurse arrived at the unit and reported the program does not use task sheets but the expectation is that the tenants are to be toileted every two hours or so within 30 minutes.
12. 6:26 pm Monitor advised the program nurse that Tenant #5 had remained at the dining room table without toileting from 12:30 pm to current time. The nurse assisted the tenant to stand and walk to bathroom. The incontinent brief removed was heavily wet and odorous.

Although, two to three staff members were present at all times, the tenants remained seated at the dining room table and were not provided toileting assistance for six hours. The needs of the tenants were not met.

- Regulatory Insufficiency: A sufficient number of trained staff shall be available at all times to fully meet tenant's identified needs. (IAC r. 481-67.9(1))

E. Tenant Rights

Complaint Allegation #31411-C: It was alleged that staff were not providing cares.

- Monitoring Observation: Tenant #4, as noted in Section D. Staffing, did not receive toileting assistance every two hours and as needed with the assistance of one staff as directed in the service plan of 7-14-10 and was left sitting for approximately 6 hours at the dining room table. When staff assisted the tenant, the tenant's clothing was wet.

  Tenant #5, as noted in Section D. Staffing, did not receive staff assistance with toileting as directed in the service plan dated 10-12-10 and was left sitting at the dining room table for approximately 6 hours. When staff assisted the tenant, the tenant's incontinent brief was heavily wet and odorous.

- Regulatory Insufficiency: To be treated with consideration, respect, and full recognition of personal dignity and autonomy. (IAC r. 481-67.3(1))

- Regulatory Insufficiency: To receive care, treatment and services which are adequate and appropriate. (IAC r. 481-67.3(2))

F. Other

Complaint Allegation #30839-C: It was alleged the program terminated an employee in retaliation for speaking to a state monitor.

- Monitoring Observation: Staff interviews and review of personnel files revealed no evidence of retaliation.

- Regulatory Insufficiency: None noted.

Dated this 14th day of December 2010.