IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

DEMAND LETTER
CERTIFIED

December 30, 2010

Mr. Brent Olsen, Director
Whispering Willow Assisted Living
601 Dawn Street
Fredericksburg, IA 50630

RE: I. Final Complaint Revisit and Recertification Monitoring Evaluation Report
II. Civil Penalty
III. Appeals/Hearings
IV. Standard Certification
V. Conclusion

Dear Mr. Olsen:

I. Final Complaint Revisit and Recertification Monitoring Evaluation Report – Whispering Willows Assisted Living, Fredericksburg, IA

Enclosed is the **Final Complaint Revisit and Recertification Monitoring Evaluation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapter 481—67 and 481—69. The Report notes the Regulatory Insufficiencies in the area(s) of: Medications and Record Checks. Whispering Willows Assisted Living ("Program") is being assessed a $500 civil penalty.

DIA is accepting the Plan of Correction (POC) following the Program's submission of information.

II. 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 in accordance with IAC 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 cover letter to the attention of **Rose Boccella** and remit the penalty assessed by check or money order in the amount of three hundred twenty five dollars ($325) 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 30 days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to IAC chapter 481—10. If the Program appeals, the civil penalty will be suspended, pending the appeal process. If the Program does not appeal, the fine is due within 30 days of notice.

IV. Standard Certification

Enclosed you will find the Assisted Living Program Certificate **S0284** with effective dates of **September 9, 2010** through **September 8, 2012**.

V. Conclusion

The Program is being assessed a $500 civil penalty. The POC submitted on December 23, 2010, has been reviewed and will constitute the final POC related to the on-site visit of December 7, 2010.

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 this letter and report, please contact your Certification Coordinator, Rose Boccella, at 515/281-7039.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint Revisit and Recertification Monitoring Evaluation Report

Complaint Intake #: 28042-CR

Assisted Living Program:

Brent Olsen, Director
Whispering Willow Assisted Living
601 Dawn Street
Fredericksburg, IA 50630

Date of Monitoring Visit:

December 7, 2010

Monitor(s):

Lori Miner, RN BSN
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 Recertification Monitoring Evaluation 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:

An on-site monitoring evaluation was conducted at Whispering Willows on December 7, 2010. 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:	8
Current number of tenants with cognitive disorder:	0
Total Population of GPP:	8

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

Total Population of DSP:	5
Total Census of ALP:	13

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

Tenant/Family Satisfaction Results – A community meeting was held with four tenants. The tenants reported the food was good but they would like more fresh fruits and vegetables. They stated that staff were well trained and answered calls within five minutes. They said the program planned enough activities. The tenants reported they felt safe at the program and would recommend it to family and friends.

Program History – The program did not receive any regulatory insufficiencies during this certification period.

On-Site Monitoring Evaluation – The monitors made the observations detailed in the following areas.

A. Medications

Monitoring Observation: Staff #1 was observed at the 8:00 a.m. medication pass. Medications for Tenant #1 were in bubble packs. After checking the pack with the Medication Administration Record (MAR), the medication was transferred from the bubble pack to a medication cup. Staff then signed the MAR, documenting the administration of the medication, prior to the actual administration of the medications. The Medication Policy provided by the program indicated the staff "must" follow the "rights" of medication administration which included "right documentation – recording with initials afterwards…" The Medication Administration policy provided by the program indicated "Once meds are administered staff will sign the MAR…"

Medications for Tenant #2 were to be administered from a prefilled med box according to the MAR. Upon opening the locked drawer in the tenant's room, two unlabeled medication cups containing several pills were observed. Staff #1 was questioned about the medications in the cups. She recalled a conversation earlier in the day with the person that filled the medication box and cups. Staff #1 was instructed at that time to use the unlabeled medication cups for the morning and noon doses of medications since the med box had just been filled. This monitor asked Staff #1 how many pills were given in the morning or what the medications were for. Staff #1 was unsure of the number of pills given in the morning or what the pills were for. Staff #1 selected one of the unlabeled medication cups for morning administration because it contained an orange pill that she recalled the tenant received in the morning. The Medication Policy provided by the program indicated "medications shall be labeled." Staff #1 wore gloves during the administration of oral medications to Tenant #2. Staff #1 proceeded to administer eye drops to the tenant. The gloves were not changed and hands were not washed between the administration of the oral medications and the administration of eye drops. At 9:00 a.m. Tenant #2 indicated the need to use the restroom. Staff #1 stated she would return later to help the tenant shave and brush teeth, and to administer the last of the 8:00 a.m. medications. At 9:30 a.m., a copy of Tenant #2's MAR was obtained and the last of the 8:00 a.m. medications (Miralax) had not been documented as given. According to the Medication Policy provided by the program, staff "must" follow the "rights" of medication administration including "right time"– "…If a certain time is specified for the medication, it need to be given only at that time." A review of the MAR provided for Tenant #2 lacked documentation of the administration of the 8:00 p.m. medication Urea Cream on 12/1, 12/2, 12/5, and 12/6/10.

A second medication pass, for the noon medications, was observed with Staff #1. Tenant #1 had one medication ordered at noon. Staff #1 charted this medication as given prior to administration. When the medication drawer was opened, Bacitracin and Aquaphillic, both topical preparations were noted to be in the medication drawer without being in a zip lock bag. According to the Medication Policy provided by the program, "All topical medications will be stored separately from oral medications by means of a zip lock bag…" Staff #1 put on gloves prior to the administration of medication to Tenant #1. The gloves were removed after meds were given, and new gloves were applied prior to going to Tenant #2's room. Staff #1 did not wash hands after removing one set of gloves and reapplying new gloves. Tenant #2 was given medications from the remaining unlabeled medication cup. Betamethasone, a topical ointment was not in a zip lock bag. In summary, medications were documented as given prior to administration, medications were not documented as given, handwashing was not done prior to the administration of

eye drops and between tenants, medications were set up in unlabeled medication cups for staff to administer, medication was administered more than one hour after the administration time noted on the MAR, and topical medications were not separated in a zip lock bag from other medications.

- Regulatory Insufficiency: Each program shall follow its own written medication policy, which shall include the following: (IAC r. 481-67.5) When medications are administered traditionally by the program: The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by unlicensed assistive personnel in accordance with requirements in 655—Chapter 6 governing nurse delegation. (IAC r. 481-67.5(6)(a))

B. Structural Requirements

Complaint Allegation #28042-CR: The program received a regulatory insufficiency at the time of the September 2, 2009 on-site regarding unlocked cabinets with cleaning products accessible to tenants with dementia.

Monitoring Observation: Tour of the secured dementia unit on 12-7-10 at 8:30 am revealed no cleaning products or dangerous chemicals were accessible to tenants.

- Regulatory Insufficiency: None noted.

C. Record Checks

Monitoring Observation: Staff #2 had a date of hire of 5-10-10. The criminal background dated 6-14-10 indicated a positive criminal history. The program received an evaluation from the Department of Human Services (DHS) dated 6-22-10 that allowed Staff #2 to work in a health care facility. The program provided documentation of past schedules which indicated Staff #2 was scheduled to work seven times during the week from 5-30-10 to 6-5-10 prior to the program obtaining the evaluation from DHS.

Staff #3 had a date of hire of 6-12-10. The criminal background dated 6-14-10 indicated a positive criminal history. The program received an evaluation from the DHS dated 6-23-10 that allowed Staff #3 to work in a health care facility. The program provided documentation of past schedules which indicated Staff #3 was scheduled to work on 6-11, 12 and 13-2010, prior to obtaining the evaluation from DHS.

- Regulatory Insufficiency: Pursuant to Iowa code section 135C.33, a prospective employee of a program shall have a criminal history check, dependent adult abuse, and child abuse check performed before the prospective employee starts work. If a prospective employee has a criminal history or an abuse history, the prospective employee shall not be employed by the program unless the department of Human Services has performed an evaluation and determined that the record does not warrant the employment prohibition. Proof of the pre-employment background check shall be maintained in the program's employee file. The program must meet all requirement of Iowa code 135C 33 and Administrative rules adopted pursuant to Iowa Code section 135 C 33. (IAC r. 481-67.9 (3))

Dated this 29th day of December 2010.