IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

DEMAND LETTER
CERTIFIED
Complaint Intake #: 33196-C

May 18, 2011

Mary Brandt, Administrator
Eiler House Assisted Living
920 W. Garfield
Clarinda, IA 51631

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

Dear Ms. Brandt:

I. Final Recertification Monitoring Evaluation & Complaint Investigation Report – Eiler House Assisted Living, Clarinda, IA

Enclosed is the **Final Recertification Monitoring Evaluation & Complaint Investigation 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: Life Safety and Other (lack of dependent adult abuse training). Eiler House Assisted Living ("Program") is being assessed a $1500 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a).

DIA is accepting the Plan of Correction (POC) following the Program's submission of information. The Department has denied the Request for Reconsideration based on the review by the Department's General Counsel.

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 **Jim Berkley** and remit the penalty assessed by check or money order in the amount of nine hundred seventy five dollars ($975) 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 **S0020** with effective dates of **April 1, 2011** through **March 31, 2013**.

V. Conclusion

The Program is being assessed a $1500 civil penalty pursuant to Iowa Code section 231C.11 and 481 IAC 67.12(3)(a). The POC submitted on April 21, 2011, has been reviewed and will constitute the final POC related to the on-site visit of March 10, 2011.

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 Program Coordinator, Jim Berkley, at 515/281-4116.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program:

Complaint Intake #: 33196-C

Mary Brandt, Administrator
Eiler House Assisted Living
920 W. Garfield
Clarinda, IA 51631

Date of Investigation:

March 10, 2011

Monitor(s):

Hal L. Chase, RN BSN MPH

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 Eiler House Assisted Living on March 10, 2011. In preparing this report, the following information was considered:

Current Program Census

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

Current number of tenants without cognitive disorder:	15
Current number of tenants with cognitive disorder:	3
Total Population:	18

Dementia Specific Program (DSP)* – Not applicable.

***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 8 tenants in attendance. Tenants reported they liked living at the program, were satisfied with the housekeeping services and the building and grounds were clean, safe and sanitary. Tenants reported they received good care and staff were trained to provide the services needed. Tenants liked the food offered, received a variety of fruits and vegetables, but reported they felt concerned for staff safety when using the kitchen stove. The kitchen stove malfunctions and staff have been injured when they have attempted to re-light the pilot lights. Tenants reported they felt safe, had autonomy related to making their own decisions and received excellent nursing care from the program nurse. The program nurse was available when needed and really cared about each of them. Tenants requested more activities as they had lost their activities director. Tenants reported they were generally satisfied with the program and would recommend the program to friends and family.

Program History – There were substantiated Regulatory Insufficiencies in the area of Service Plan during this certification period.

On-Site Monitoring Evaluation – The monitor(s) made the observations detailed in the following areas.

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

A. Life Safety

Complaint Allegation 33196-C: It was alleged the kitchen grill had no flames when staff turned it on. The middle pilot light didn't work. When the grill was turned on it blew a ball of fire.

Monitoring Observation: Staff #5 stated the weekend of 2-12-11 or 2-19-11, the kitchen filled with gas. Staff were unaware the pilot light wasn't lit. Staff were not told the pilot light was defective and a staff person turned the stove on and caused "possibly a flash fire," but not was certain what had happened; she knew a staff person had to go to a hospital emergency room for treatment. She stated the griddle hadn't been turned on today. She stated she was told the stove hadn't been fixed because the program believed a window opened in the kitchen caused the pilot lights to go out.

Staff #5 stated one of the pilot lights did not stay lit under the middle of the grill of the kitchen stove. Staff needed to check to see if the pilot lights were on before turning on the griddle. If the grill was turned on and the pilot lights are not lit, the room would fill with gas. If the pilot lights were lit, we were to turn the griddle on; otherwise we don't turn it on. Staff #5 wasn't given any direction from administration and stated she just used common sense. Staff #5 stated this "situation has been going on for three to four weeks."

An incident report of 2-12-11 indicated Staff #6 was injured, when she discovered the pilot light was out in the kitchen stove. She attempted to re-light the pilot light when flames erupted and burned her face. Staff #6 stated "the stove has issues." Half the time the pilot lights are on and half the time they are not. The pilot lights would go out on their own, other times one of three, two of three pilots would not be lit. Prior to the accident of 2-12-11, staff were not told to check the pilot lights. This situation has existed for over a year. She stated Staff #8 tried to light the stove and a fire burned her hand and wrist. She stated administrative staff joked about the stove not working correctly and said "we will just wait until the stove blows up before we fix it." The pilot light goes out daily and management has known about this problem for over a year.

An incident report of 5-1-10 indicated Staff #8 sustained a burn to right finger, but the report did not indicate how the staff person was injured. A first report of injury of 5-1-10 indicated the staff person's fingers were burned when she was cooking in the kitchen with an unknown object.

Staff #7, who was maintenance staff stated there were three pilot lights for grill on the kitchen stove but the pilot lights would not stay lit. Staff were not to turn on the grill if the pilot lights were not lit. If all three pilot lights were out "there would be a lot of gas coming out." There was flash fire and he thought "staff tried to light the stove and one burner may have lit and the other two did not. The kitchen stove has been in use for over a year and over the last three months there has been less than five times when the pilot lights were not on. The pilot tube "gets plugged up with a white coating and he had to clean it one to two times weekly. The program has called an outside company at least three times to repair the stove.

The department of public safety fire marshal's inspection division was on site on 3-11-11 and reported the following:

An investigation into the malfunction was completed by this office. During staff interview with Administrative Staff A she reported of an incident which occurred on 1-12-11. She reported a staff member had attempted to re-light the pilot light underneath the grill and was burned in the process. According to Administrative Staff A the knob controlling the unit had been left on high when attempting to re-light the unit. The staff member consulted with the facility Nurse on the phone and then was transported to the hospital emergency room for treatment.

Record review on 3-11-11, showed the appliance was serviced on 7-2-10 by General Parts. The trouble reported was as follows: "Vulcan range pilot wont light and oven not hot enough, per customer, unit not hot enough." The following was recorded as the work performed, "Found left side grill pilot would not light. Removed and cleaned pilot. Also found pilot right side oven running twenty-five degrees too cool. Calibrated both ovens. Unit checks O.K."

Record review also showed the appliance was serviced again by General Parts on 7-14-10. The trouble reported was recorded as, "Left oven too cold, right oven to hot and uneven." The work performed was recorded as, "Left oven, found unit burning about ten degrees too cool. Calibrated thermostat and increased by-pass flame to Right oven. Found temperature light on. Adjusted by-pass flame lower. Removed foil from blower wheel which may have been causing uneven cooking, convection ovens do tend to cook unevenly. May have to rotate product or reduce cooking temperature."

Record review revealed the hood and duct system located above the appliance was tested and inspected by Midwest Protection Services, Inc. on 1-20-11. The comment recorded at the bottom of the inspection report was, "Test ok".

Staff interview with Maintenance Staff A revealed the gas company had been to the facility to inspect the appliance during the summer of 2010. He also reported he has had to re-light the pilot light for the grill approximately once a week.

Observations during inspection of the appliance revealed the left pilot light, 1 of 3 pilot lights, underneath the grill went out during the inspection of the unit.

The facility shall discontinue the use of the appliance and have the appliance inspected by the necessary service providers and make all necessary repairs to appliance or related systems prior to using it.

- Regulatory Insufficiency: The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program. (IAC r. 481-69.32(3))

B. Other

Monitoring Observation: A review of staff files indicated the Administrator was hired on 6-7-10, Staff #2 was hired on 6-1-10 and Staff #7 was hired on 7-29-09. Each had not completed two hours of dependent adult abuse training within the last five years.

- Regulatory Insufficiency: A person required to report cases of dependent adult abuse pursuant to section 235B.3, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years. (235B.16 (5)(b))

Dated this 10th day of May, 2011.