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GOVERNOR

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LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

**DEMAND LETTER
CERTIFIED**

January 12, 2012

Mr. Patrick Tomscha, Administrator
Holy Spirit Assisted Living
1705 W. 25th Street
Sioux City, IA 51103

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

Dear Mr. Tomscha:

**I. Final Recertification Monitoring Evaluation Report – Holy Spirit Assisted Living,
Sioux City, IA**

Enclosed is the **Final 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: Structural Requirements and Transportation. Holy Spirit Assisted Living (“Program”) is being assessed a \$500 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 Request for Reconsideration has been denied based on foreseeability of harm related to the insufficiencies cited.

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HEALTH FACILITIES
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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 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 **S0038** with effective dates of **March 8, 2012 through March 7, 2014**.

V. Conclusion

The Program is being assessed a \$500 civil penalty pursuant to Iowa Code section 231C.11 and 481 IAC 67.12(3)(a). The POC submitted on December 19, 2011, has been reviewed and will constitute the final POC related to the on-site visit of November 8, 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 Report

Assisted Living Program:

Patrick Tomscha, Administrator
Holy Spirit Assisted Living
1705 W. 25th Street
Sioux City, IA 51103

Date of Monitoring Visit:

November 8, 2011

Monitor(s):

Lori Miner, RN BSN

Definitions: *The following definitions are relevant:*

Assisted Living Program – A program certified under 481 IAC 69 that provides housing with contracted services to three or more tenants in a physical structure that provides a homelike environment. Services may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living. A General Population Program is an Assisted Living Program that is not dementia-specific but may have tenants with cognitive disorder.

Dementia-Specific Assisted Living Program - An assisted living program certified under 481 IAC 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 (GDS), or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS, or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Regulatory Insufficiency - A violation of a statutory or rule provision within the Code of Iowa (2011) or the 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 statutory or rule violations. The plan should identify how and by what date each regulatory insufficiency will be corrected, and what measures will be taken to ensure the problem does not recur. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint/Incident Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Overview: *In preparing this report, the following information was considered:*

Current Program Census

Assisted Living Programs are defined by the type of population served. The census numbers were provided by the Program at the time of the on-site.

General Population Program	
Number of tenants without cognitive disorder:	23
Number of tenants with cognitive disorder:	0
Total Population of Program at time of on-site	23
Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	6
Number of tenants with cognitive disorder:	5
Total Population of Program at time of on-site	11
TOTAL census of Assisted Living Program	34

Tenant/Family Satisfaction Results – A meeting was held with 18 tenants. The best thing about the Program was the good food, the help, and the fact that everything was done for the tenants. Housekeeping was completed to the tenants' satisfaction in the apartments and common areas. The grounds were kept clean as well. Maintenance responded to requests quickly. Tenants used a call pendant to request assistance. Staff responded in less than five minutes. Staff members were reported to be very good and respectful. The food was described as good with hot foods served hot. There were a variety of foods offered. There were enough activities offered, and it was not a problem for the tenants to go to the attached nursing facility to participate in activities. The tenants felt safe at the Program, and would recommend it to others.

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

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

A. Transportation

Monitoring Observation: The Program provided copies of driver's licenses of three persons who operate minivans to transport tenants. The copies of the licenses for Staff #1 and Staff #2 revealed each had a current Class C, non-commercial driver's license. The publication Commercial Driver's License in a Nutshell dated July 2010 and issued by the Iowa Department of Transportation revealed Iowa law requires drivers to possess a Class D (chauffeur's) license or commercial driver's license when transporting persons for wages, compensation or hire.

Regulatory Insufficiency: The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated. (IAC r. 481-69.33(6))

B. Structural requirements

Monitoring Observation: A tour of the dementia unit was taken with the Program Nurse. The laundry facilities were noted to be in an open area with a bottle of laundry detergent sitting on the counter. The detergent was immediately placed in a locked room. The kitchen was noted to have an open door. Upon entering, a toaster was noted to be plugged in and sitting on the counter. The toaster was immediately unplugged. A cupboard easily opened, even though a lock was present on the door. Dishwashing soap was seen. Disinfectant was also present. Another unlocked cupboard contained a bottle labeled Clorox Clean-up with Bleach. There was another bottle with an original label of Clorox Clean-up that had tape over the original label. On the tape was written a note that the bottle was to be used to keep bugs off the deck. The label did not contain the contents of the bottle, but the Assisted Living Coordinator thought the bottle contained vinegar and water. Chemicals and electrical devices were not secured in the dementia unit.

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