IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

HEALTH FACILITIES DIVISION
Lucas State Office Building
321 East 12th Street
Des Moines, IA 50319-0083
(515) 281-4115 Phone
(515) 242-5022 Fax

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

**Complaint/Incident Intake #: 41987-C**

February 14, 2013

Mr. Mike Early, Manager
Gardens at Jefferson
1000 W. Washington Street
Jefferson, IA 50129

**RE: Final Complaint/Incident Investigation Report, Gardens at Jefferson, Jefferson, Iowa**

Dear Mr. Early:

Enclosed is the **Final Complaint/Incident 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.

DIA has reviewed the Plan of Correction (POC) submitted in response to the **Preliminary Complaint/Incident Investigation Report**. Based upon a complete review of the Report and the Program's proposed actions to correct the identified Regulatory Insufficiencies, DIA accepts the POC. The Request for Reconsideration has been denied as the allegation of the complaint was substantiated at the time of the onsite.

If you have any questions in regard to the enclosed Report, please contact me at 515/281-4116 or **James.Berkley@dia.iowa.gov**

Sincerely,

*Jim Berkley*

Jim Berkley
Program Coordinator
Adult Services Bureau

Enclosure

# IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
## Assisted Living Program
## Final Complaint/Incident Investigation Report

**Assisted Living Program:**

Mike Early, Manager
The Gardens at Jefferson
1000 W. Washington Street
Jefferson, IA 50129

**Complaint/Incident Intake #:** 41987-C

**Date of Complaint/Incident Investigation:**

January 4th and 8th, 2013

**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 below were provided by the Program at the time of the on-site visit.

| General Population Program | |
|---|---|
| Number of tenants without cognitive disorder: | 31 |
| Number of tenants with cognitive disorder: | 3 |
| Total Population of Program at time of on-site | 34 |
| **TOTAL census of Assisted Living Program** | 34 |

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

**Complaint/Incident Investigation** – The Complaint/Incident investigator(s) made the observations detailed in the following areas:

**A. Medications**

Complaint/Incident Allegation: It was alleged narcotics were taken from one tenant and given to another when one tenant ran out.

- Monitoring Observation: Nurse Consultant #1 and the current Program Nurse were interviewed. Each denied ever telling staff members to take medications from one tenant to give to another.

  Staff #1, #2, #3, #4, and #5 were interviewed. All were identified as universal workers that passed medications. All denied ever being asked to take medications from one tenant to give to another.

  Narcotic count sheets were reviewed. One entry on the narcotic count sheet for Tenant #3 dated 10-12-12 indicated the narcotic count for hydrocodone was down to zero but the supply was replenished on the same day.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation: It was alleged narcotics were left out on a counter in an unlocked room.

- Monitoring Observation: On 1-4-13 at 9:03 a.m. the monitor entered the workroom next to the nurse's office. On the countertop was a clear bag with empty medication containers (DADs) observed. The door to the workroom was open. The door was open and the workroom unattended on two occasions during the onsite visit. At times during the onsite visit, the door was locked. According to the current Program Nurse dietary, maintenance, housekeeping, and nursing staff had keys to the workroom.

According to the current Program Nurse, pharmacies usually brought prescriptions during the hours she was at the program, and medications were stored in her office until they were checked in. The current Program Nurse stated she had returned a DAD to the pharmacy with two hydrocodone remaining on 1-3-13.

Staff #1 was interviewed and stated narcotics were left in the workroom one time in September after the previous program nurse left for the day. Staff #2 stated medications were delivered after hours in December. The medications, including hydrocodone were left in the locked workroom in December. Staff #2 indicated several staff members had access to the workroom. Staff #3 stated medications had been left in the locked workroom, but not narcotics. Several staff members had keys to the workroom. Staff #4 stated medications were left in the workroom at the end of December, but narcotics were not in that group. Staff #5 stated narcotics had not been left out or unattended.

An attempt was made to interview the housekeeper however she was reported to be on vacation and not returning until 1-21-13. Phone calls to the housekeeper were unsuccessful.

Several staff members stated medications had been left in the workroom, to which many staff had a key. The door was not always observed to be locked and empty DADs were observed on the counter. A preponderance of evidence could not be determined.

While a deviation from the requirements of the rules was found, it did not meet the standard set forth in rule 67.10(3) for determining that a regulatory insufficiency exists.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation: It was alleged medication planners were filled incorrectly. It was alleged doses of medications were missed because planners were not filled. It was alleged untrained staff were filling the planners.

- Monitoring Observation: The current Program Nurse identified three tenants for which medication planners were filled, Tenants #4, #5, and #6. Staff administered the medications from the planner to Tenant #4, Tenant #5 received reminders to take medications, and Tenant #6 self-administered medications set up in the planner according to the current Program Nurse. Staff #1, #2, #4, and #5 stated medications had been set up incorrectly in planners as indicated by the number of pills in the planner did not match the number to be given. Sometimes the planner was short a pill, other times too many pills were in the planner. All staff indicated an incident was not completed to document the medication error.

  According to Nurse Consultant #2 a change in the documentation of the filling of planners occurred in November 2012. Previously, nurses had documented on what day planners were filled. Currently, the nurse filling the planner documented each pill placed in the planner.

The medication administration records for Tenants #4, #5 and #6 lacked documentation to indicate planners were filled between 10-2-12 and 11-19-12. Staff members documented the administration of medications from the planner of Tenant #4 for October and November 2012. According to the Manager the previous program nurse left the program on 10-10-12. The program provided documentation of four nurses working at the program in the interim, two of which were agency nurses. The program currently had two nurses who were being oriented to the position of program nurse.

Four staff members indicated medication planners had been filled incorrectly at times. None of the errors were documented by incident report. Since the previous program nurse left in October, four nurses have worked at the program. Three tenants had planners filled. The medication administration sheets for the three tenants lacked documentation of any planner being filled between 10-2-12 and 11-19-12. The clinical record lacked documentation that a nurse had filled the planner.

Complaint/Incident Allegation: It was alleged narcotics were taken and not documented on the narcotic count sheet. Staff members were told the narcotic count sheet would be fixed the next day. It was alleged narcotics were not added to the narcotic count sheet when new doses of narcotic arrived.

- Monitoring Observation: The narcotic record sheet for Tenant #3, dated 1-3-13 and timed 1500, indicated 64 tablets of hydrocodone were present, followed by an empty line, and then a line dated 1-3-12 and timed 7:17 p.m. with 62 tablets present. The current Program Nurse stated she forgot to sign out the medication and staff members left a space for her to complete on 1-4-13. The current Program Nurse stated she would be filling out an incident report.

  Hydrocodone narcotic records for Tenant #3 dated 10-4-12 and timed 2:00 p.m. indicated an addition of one pill since the previous count with no explanation. The space above was blank and crossed out. On 10-25-12 the pill count went from 16 to 56 to 72 with no explanation. On 12-6-12 the count went from 10 to 7 with only two pills documented as given.

  The Fentanyl narcotic record for Tenant # 8 had an entry on 12-24-12 followed by a line which was crossed out. The next entry dated 12-27-12 indicated a correct accounting of the remaining narcotic.

  Records for Tenant #3 and #8 indicated two persons completed a narcotic count at the change of shift.

  There were no incident reports completed to document errors in the narcotic count.

  Narcotic count sheets for Tenant #3 were not completed according to professional standards.

Complaint/Incident Allegation: It was alleged an order for a narcotic was not clear, and the staff members were instructed to give "as needed" doses even though the tenant received scheduled doses of the narcotic.

- Monitoring Observation: Tenant #3, a 91 year-old, was admitted on 4-4-11 and had diagnoses of: Asthma, Back Pain, Atrial Fibrillation, Parkinson's Disease, Hypertension, Thyroid Disease, Gastroespophageal Reflux Disease, and History of Deep Vein Thrombosis. Tenant #3 had an order dated 4-18-12 which indicated "Hydrocodone/APAP 7.5/500 milligrams by mouth four times a day scheduled. May take an additional two pills by mouth as needed daily." The order was confirmed with the health care provider in a note dated 11-30-12 and signed by the health care provider on 12-6-12. The medication administration record (MAR) was reviewed and the order was written on the MAR as ordered. The narcotic count sheet, the "as needed" documentation, and the MAR for 12-11, 12-13, 12-22 and 12-25-12 indicated Tenant #3 received seven doses of Hydrocodone in one day rather than the prescribed six doses in one day. On 1-1-13 the narcotic count sheet indicated Tenant #3 received a dose of Hydrocodone at 5:10 a.m., an "as needed" dose and 6:50 a.m., a scheduled dose.

  Staff members administered seven doses on four occasions which exceeded the daily dose limit ordered by the health care provider. On one occasion, the narcotic was given with less than two hours between doses. The staff members did not demonstrate a clear understanding of the Hydrocodone order. The medication order was not followed.

During the course of the investigation, the following was noted:

- Monitoring Observation: Tenant #9, an 80 year-old, was admitted on 7-31-12 and had diagnoses of: Dementia, Anxiety, Chronic Obstructive Pulmonary Disease, and Gastritis. Tenant was staged at three on the Global Deterioration Scale (GDS) which indicated mild cognitive decline. Tenant #9 had an order for Lorazepam twice a day as needed for anxiety. According to the current Program Nurse, the physician was contacted to make the order for Lorazepam routine rather than "as needed," but the order continued "as needed." The MAR for November and December 2012 indicated Tenant #9 had taken Lorazepam routinely twice a day. The MAR for 12-31-12 and 1-1-13, lacked any documentation of the Lorazepam being given. The current Program Nurse stated the program did not receive the medication from the pharmacy and there was no medication to give. Staff interview revealed Tenant #9 did not request the medication because Tenant #9 knew there was none to be given. Tenant #9 was interviewed and reported nightmares, sweating, and crying when the medication was not received. Medications were not available as ordered. There were no incident reports completed documenting the medication errors. There was no documentation to indicate the physician was notified.

  In summary, the program did not complete documentation of the filling of medication planners and narcotic count records according to current professional standards. Medications were not given as ordered. Orders from a health care provider were not clarified when staff members did not demonstrate an understanding of the medication order.

- Regulatory Insufficiency: When medications are administered traditionally by the program: (a) 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. Policies and Procedures**

Complaint/Incident Allegation: It was alleged incident reports were not completed and physicians were not notified as required.

- Monitoring Observation: Tenant #9 did not have incident reports completed with the unavailability of the Lorazepam. There was no documentation the physician was notified of the medication error. Tenant #3 received seven doses of Hydrocodone on four occasions. There was no documentation to indicate the physician was notified of the medication error. There were no incident reports completed with the narcotic count error of 1-3-13 by the staff members on duty. Four staff members did not complete incident reports upon discovering medication planners were filled incorrectly.

  The program's policy on incident reporting indicated staff would document unusual accidents, incidents involving tenants, visitors, employees, or other persons within the program or on the premises. When tenants had delegated medication administration to the program, medication errors were to be reported to the physician.

  The program did not follow its policy on the completion of incident reports.

- Regulatory Insufficiency: A program's policies and procedures must meet the minimum standards set by applicable requirements. The program shall follow the policies and procedures established by a program. All programs shall have policies and procedures related to the reporting of incidents including allegations of dependent adult abuse. (IAC r. 481-67.2(2))

**C. Staffing**

During the course of the investigation, the following was noted:

- Monitoring Observation: Four staff were interviewed. Staff members identified medication planners had been set up incorrectly or that a tenant did not have a prescribed "as needed" medication available for two days. The four staff members stated they did not fill out an incident report in any of those instances. The current Program Nurse stated she told staff she would fill out an incident report when a narcotic count was off, but she was not the staff member on duty at the time of the discrepancy. The staff members on duty did not fill out an incident report. Staff members did not verbalize or demonstrate an understanding of the incident report policy which indicated staff members were to document unusual incidents involving tenants and employees within the program

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

**D. Compliance with Plan of Correction**

Complaint/Incident Allegation: It was alleged a plan of correction was not being followed.

- Monitoring Observation: The Department last visited the program during July and August 2012. No insufficiencies were identified at that time.

- Regulatory Insufficiency: None noted.

**E. Occupancy Agreement**

Complaint/Incident Allegation: It was alleged prospective tenants had put down a monetary deposit and had lost the down payment when deciding not to reside at the program.

- Monitoring Observation: The program identified one prospective tenant who placed a deposit on October. The program also provided documentation that deposits were non-refundable. The Manager stated the prospective tenant declined an open apartment, but he continues to be in contact with the prospective tenant as the deposit would be good for any future rental.

- Regulatory Insufficiency: None noted.

**F. Food Service**

Complaint/Incident Allegation: It was alleged the menu did not provide a well-balanced meal. Meals were served late and tenants that were diabetic tenants were affected.

- Monitoring Observation: The program provided documentation of a five-week menu cycle signed by a registered and licensed dietitian. The noon meal was observed on 1-4-13 and the food was served as indicated on the menu.

- Regulatory Insufficiency: None noted.

- Monitoring Observation: Tenant #1, a 92 year-old, was admitted on 4-13-09 and had diagnoses of: Diabetes Mellitus Type I, Polyneuropathy, Hypertension, and Dementia. Tenant #1 was staged at five on the GDS which indicated moderately severe cognitive decline. According to the service plan, the Program Nurse pre-filled insulin syringes and staff members handed Tenant #1 a syringe to self-inject the insulin. Assistance was provided to Tenant #1 by a spouse. The clinical record contained no documentation of any incidents of hypoglycemia. An interview was conducted with Tenant #1 and the spouse and neither identified meals being late or episodes of hypoglycemia.

  Tenant #2, a 96 year-old, was admitted on 6-23-08 and had diagnoses of: Juvenile Diabetes, Hardening of the Arteries of the Heart, Heart Attack, Abnormal Heart Rhythm and High Blood Pressure.

Tenant #2 self-administered medications and was prescribed insulin. The clinical record contained no documentation of any incidents of hypoglycemia. Tenant #2 was interviewed and indicated meals were not served late, and meal times have not negatively impacted blood sugar levels.

- Regulatory Insufficiency: None noted.

**G. Other**

Complaint/Incident Allegation: It was alleged employee files related to pay were altered.

- Monitoring Observation: There are no assisted living regulations related to employee-employer activities.

- Regulatory Insufficiency: None noted.