IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

**AMENDED DEMAND LETTER**
**CERTIFIED**
**Complaint Intake #: 37904-C**

March 20, 2013

Ms. Karen Beck, Administrator
Prairie Hills Assisted Living
5815 S.E. 27th Street
Des Moines, IA 50320



**RE: NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL COMPLAINT/INVESTIGATION REPORT – PRAIRIE HILLS ASSISTED LIVING**

Dear Ms. Beck:

**I. Final Complaint/Incident Investigation Report – Prairie Hills Assisted Living, Des Moines, IA**

Enclosed is the **Final Complaint/Incident Investigation Report ("Report")** issued 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, following a complaint investigation by DIA on February 17, 2012. The Report notes Regulatory Insufficiencies in the area(s) of: Medications.

**Prairie Hills Assisted Living** ("Program") is being assessed a $500 civil penalty pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC rule 67.12(3)(a)(2).

Pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC rule 67.12(3)(a)(2), the continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of tenants may result in a civil penalty of up to $5,000.

The Report reflects that the Program failed to comply with regulatory requirements which have been cited previously by the Department. The Program received a regulatory insufficiency in the area of Medications during a January 5-6, 2012 on-site complaint investigation.

The factors to be considered in determining the amount of a civil penalty are contained within rule 481 IAC 67.12(3)(b) and include:

(1) the frequency and length of time the regulatory insufficiency occurred;
(2) the past history of the program as it relates to the nature of the regulatory insufficiency;
(3) the culpability of the program as it relates to the reasons the regulatory insufficiency occurred;
(4) the extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;
(5) the relationship of the regulatory insufficiency to any other types of regulatory insufficiencies;
(6) the actions of the programs after the occurrence of the regulatory insufficiency;
(7) the accuracy and extent of records kept by the program which relate to the regulatory insufficiency and the availability of such records to DIA;
(8) the rights of tenants to make informed decisions; and
(9) whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

In this case, the determination of a $500 civil penalty is based upon a repeated regulatory insufficiency in the area of Medications. As the enclosed Report details, the Program failed to obtain the correct dosage of a medication for a tenant, as ordered by the tenant's physician.

**II. Reduction of Civil Penalty**

If, within 30 days of the receipt of this demand letter, you withdraw your previous request for formal hearing and 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 wish to withdraw your request for formal hearing, please send a cover letter to the attention of **Rose Boccella** and remit the civil penalty assessed by check or money order in the amount of six hundred fifty dollars ($325) within 30 days after the receipt of this demand letter.

**III. Conclusion**

The Program is being assessed a $500 civil penalty pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2). The Plan of Correction (POC) submitted on March 13, 2012 has been reviewed and will constitute the final POC related to the on-site visit of February 17, 2012.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures.

If you have any questions in regard to this letter and enclosed Report, please contact your Program 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/Incident Investigation Report

**Assisted Living Program:**

Kit Steiber, Administrator
Prairie Hills Assisted Living
5815 SE 27th Street
Des Moines, IA 50320

**Complaint/Incident Intake #: 37904-C**

**Date of Complaint/Incident Investigation:**

February 17, 2012

**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.

| **Dementia-Specific Program by Definition** | |
|---|---|
| Number of tenants without cognitive disorder: | 30 |
| Number of tenants with cognitive disorder: | 10 |
| Total Population of Program at time of on-site | 40 |

| **Dementia-Specific Program by Dedication** | |
|---|---|
| Number of tenants without cognitive disorder: | 0 |
| Number of tenants with cognitive disorder: | 4 |
| Total Population of Program at time of on-site | 4 |
| **TOTAL census of Assisted Living Program** | 44 |

**Program History** – The program received a regulatory insufficiency in the area of Record Checks during the Sept. 14, 2011 Recertification on-site. During the Complaint Investigation (#36136-C) of Oct. 5, 2011, the program received regulatory insufficiencies in the areas of Staffing and Food service. During the December 12-15, 2011 Complaint Investigation (36937-C, 37112-A), the program received regulatory insufficiencies in the areas of: Tenant Rights, Medications, Staffing and Service Plan. The program received regulatory insufficiencies in the areas of : Tenant Rights, Evaluations, Medications, Service Plan and Staffing during the Complaint Investigation 937367-C) of January 5 and 6, 2012.

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

**A. Medications**

Complaint/Incident Allegation: It was alleged the Program ran out of medications for a tenant, and the tenant was not given medications as ordered.

- Monitoring Observation: Two staff members who administer medications, #1 and #2, were interviewed. Staff #1 stated she had heard Tenant #1 had been without a "patch" a couple of days. Staff #1 was not aware of any other tenants who had gone without medications. Staff #2 indicated she was not aware of any tenants who had been without medications. Staff #2 stated both the Certified Nursing Assistants and the nurse reordered medications. The Licensed Practical Nurse (LPN) was interviewed and stated she filled medication planners and ordered medications. Current Medication Administration Records (MAR) were reviewed for all tenants in the Program for the month of February 2012, both those in the general population which was dementia-specific by definition as well as the secured dementia unit. Medications were documented as given; an exception was noted on the MAR of Tenant #1.

Tenant #1, an 81 year-old, was admitted on 6-14-10 and had diagnoses of: Hyperlipidemia, Coronary Artery Disease, Depression, Constipation, Anxiety, Arthritis, History of Stroke, and Schizoaffective Disorder. Tenant #1 was staged at four on the Global Deterioration Scale (GDS) which indicated moderate cognitive decline. Tenant #1 resided in the secured dementia unit. The February 2012 MAR was reviewed. It was noted oral medications were placed in a planner weekly by the LPN. It was documented without exception medications had been administered from the planner as ordered. Tenant #1's planner was reviewed. No pills were in the planner after Monday morning through the time of the onsite visit, a Friday morning, which indicated medications had been given for the week. Saturday times were checked against the MAR for the number of pills in the planner and found to be correct. A fax documented the LPN had requested Exelon 9.5 mg patches and OsCal from the pharmacy the week of 2-13-12. The MAR for Tenant #1 indicated Tenant #1 was to receive an Exelon 9.5 milligram(mg) patch daily. The dose for 2-14-12 had initials with a circle around. Documentation indicated the patch had been given, but Tenant #1 was out of patches. The dose for 2-15-12 had initials with a circle around, which was crossed out. The MAR contained the initials of the LPN for the 2-15-12 dose. An interview with the LPN revealed Exelon patches had been ordered on Monday of the week, and arrived late the evening of 2-14-12. The LPN stated staff members begin administering medications early in the morning, and the dose was not available to staff members when administering medications on the morning of 2-15-12. The pharmacy had filled the phone order but required a written prescription, sent 2-15-11. The LPN stated she applied the Exelon patch to Tenant #1 when she arrived around 8:00 a.m. the morning of 2-15-12. In an interview, the LPN stated there were always Exelon patches in the box each week when filling the planner. There was no method for tracking the administration of the patches against the number of patches remaining.

A physician's order dated 12-5-11 indicated "In one month increase Exelon patch to 9.5 mg strength." A review of the January 2012 MAR for Tenant #1 indicated the Exelon patch was switched from 4.6 mg to 9.5 mg on 1-5-12. Documentation was obtained from the long-term care pharmacy which indicated 30 Exelon patches 9.5 mg were delivered on 12-6-11, along with 30 Exelon patches of 4.6 mg. The next documented delivery of 30 Exelon patches was dated 2-15-12 from the food-store pharmacy. There were approximately 40 days between 1-5-12, the start of the Exelon 9.5 mg, and 2-15-12, the date of the first dose from the new box. Thirty Exelon patches, 9.5 mg, started on 1-5-12 would not have lasted until 2-15-12.

MARs were reviewed for all other tenants in the secured dementia unit. There was no documentation to indicate other tenants in the secured dementia unit were receiving Exelon patches.

Review of clinical records, pharmacy records, and interviews indicated the Program failed to obtain the correct dosage of the Exelon patch as ordered by the physician for Tenant #1.

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. Staffing**

Complaint/Incident Allegation: It was alleged the Program did not have a Registered Nurse.

- Monitoring Observation: The Program indicated the registered nurse (RN) had resigned on 2-10-12. The Program currently had a Licensed Practical Nurse (LPN) employed part-time, and had an RN employed by the company at another location scheduled to fill in. In an interview, the LPN stated she had immediately contacted the new RN to begin to communicate about the needs of the tenants. The new RN was interviewed in person on-site and stated she was at the Program on 2-16-12 and 2-17-12 and indicated a schedule for the upcoming week which included both the new RN and another nurse employed by the company at another location. The new RN believed this arrangement to be temporary until the Program nurse position could be filled. The new RN indicated she was about an hour away, and planned to be at the Program to complete initial evaluations and those associated with changes of condition. The new RN indicated she was available by phone.

- Regulatory Insufficiency: None noted.