IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED

May 10, 2013

Ms. Deborah Slusarczyk, Manager
Willow Pointe Senior Living
17396 Kingbird Avenue
Mason City, IA 50401

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

Dear Ms. Slusarczyk:

I. Final Recertification Monitoring Evaluation Report – Willow Pointe Senior Living (Program), Mason 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: Criteria for Admission and Retention and Transportation.

Willow Pointe Senior Living is being assessed a **$750 civil penalty** pursuant to Iowa Code section 231C.14(1)(a) and 481 IAC 67.12(3)(a)(1). The Program failed to comply with regulatory requirements. The non-compliance resulted in imminent danger or a substantial probability of resultant death or physical harm to a tenant. As the enclosed Report details, the Program failed to discharge a tenant who exceeded the criteria for admission and retention because the tenant was a danger to self, other tenants and to staff. The tenant

caused physical injury to a staff member, and other tenants reported being fearful of the tenant. 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 to the State of Iowa in the amount of four hundred eighty seven dollars and fifty cents($487.50) 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 **S0004** with effective dates of **June 1, 2013** through **May 31, 2015**.

V. Conclusion

The Program is being assessed a $750 civil penalty pursuant to Iowa Code section 231C.14 and 481 IAC 67.12(3)(a). The POC submitted on May 9, 2013, has been reviewed and will constitute the final POC related to the on-site visit of April 9, 2013.

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, Rose Boccella, at 515/281-7039 or Rose.Boccella@dia.iowa.gov

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:

Willow Pointe Senior Living
Deborah Slusarczyk, Manager
17396 Kingbird Ave.
Mason City, IA 50401

Date of Monitoring Visit:

April 9, 2013

Monitor(s):

Joyce Kix, RN

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:	19
Number of tenants with cognitive disorder:	1
Total Population of Program at time of on-site	20
TOTAL census of Assisted Living Program	20

Tenant/Family Satisfaction Results – A community meeting was held with 13 tenants. They reported the program staff members were friendly and respectful. The nursing services were great with quick response to calls. There were isolated concerns mentioned regarding the menu and some felt the food was not always served hot. The tenants enjoyed activities but thought that since they no longer had an activity director participation had decreased. They felt safe at the program with some exceptions and would recommend it to others.

Program History – There were no regulatory insufficiencies during the past certification period.

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

A. Criteria for Exclusion of Tenants

Monitoring Observation: Tenant #3, a 76 year old, was admitted 3-1-12 with diagnoses of: Seriously Mentally Impaired, Depression, Hypothyroidism, and Seizure Disorder. The clinical record contained a Psychiatric Evaluation completed 11-22-11 which documented that home health nurses that had been caring for Tenant #3 were concerned with his/her well-being because Tenant #3 had become agitated and physically abusive to his/her significant other.

A note to the physician dated 5-18-12 documented that Tenant #3 had some increased behaviors, cursing at staff, stomping and shouting with threats to "slap anyone who gets in his/her way."

A note to the physician dated 6-7-12 documented Tenant #3 had an increase in verbal aggression, especially name calling to peers and their families. The note indicated that during the past several days they had noted an increase in physical threats/aggression towards staff (such as raising arm with closed fist).

A Nurse's note on 6-11-12 documented Tenant #3 had been tearful with increased agitation all day. The nurse noted the tenant was stalking staff, threatening with closed fist and that other tenants were frightened.

A Nurse's note dated 7-22-12 documented a verbal confrontation between Tenant #3 and another tenant until intervention by the nurse.

A Nurse's note dated 8-15-12 documented a verbal exchange between Tenant #3 and another tenant. Tenant #3 stated he/she would "knock your block off". The nurse advised the staff member to call the police to see if they would take Tenant #3 to the emergency room. The police arrived but did not transport because Tenant #3 was not suicidal.

A Nurse's Note dated 12-12-12 documented Tenant #3 became upset because did not get winning numbers called during bingo game. Tenant #3 began calling peers names and was escorted to his/her apartment. On the way to the apartment Tenant #3 raised closed fist at staff but did not strike staff. Tenant #3 then bit self on the back of his/her hand causing a small skin tear.

The program provided an incident report which documented Tenant #3 became angry at bingo on 2-6-13 because he/she wanted two cookies and there was only one per person. Tenant #3 shoved the certified nurse aide (CNA). Later that same day, Tenant #3 screamed profanities at the Program manager when getting mail and did not receive a check. The manager told Tenant #3 that behavior was inappropriate and went into her office. Tenant #3 followed the manager and picked up a glass jar and made motions to throw it. The manager asked Tenant #3 to put the jar down. Tenant #3 slammed the jar down and doubled up his/her fist and swung at the manager striking her on her arm causing a bruise.

A note to the physician dated 2-7-13 completed by the manager documented Tenant #3 had been having escalating behaviors for the past week. Behavior modification had been initiated with little success. Prior to 2-6-13, behaviors consisted of name calling, screaming, slamming doors, turning radio volume up full blast, ripping up magazines and defacing signs at the program. The physician ordered some medication changes.

Tenant #6, #7 and #8 requested to meet with the monitor privately. Tenant #6 reported that he/she was afraid of Tenant #3. Tenant #6 stated that Tenant #3 had hollered at him/her until the police were called. Tenant #6 said Tenant #3 pretends to spit at others. Tenant #6 said people had quit attending bingo because they didn't like the incidents that occurred.

Tenant #7 said that Tenant #3 pounded on his/her apartment door in the middle of the night. Tenant #7 said he/she was also afraid of Tenant #3 and quit attending bingo due to the stress.

Tenant #8 reported that Tenant #3 was threatening and verbally abusive. Tenant #8 stated that most everybody was afraid of Tenant #3.

Tenant #3 exceeds criteria for assisted living level of care because despite intervention Tenant #3 is aggressive or abusive, and/or displays unmanageable verbal abuse or aggression.

Regulatory Insufficiency: A program shall not knowingly admit or retain a tenant who: a. Is bed-bound; or b. Requires routine, two-person assistance with standing, transfer or evacuation; or c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who: (1) Despite intervention chronically elopes, is sexually aggressive or abusive, or displays unmanageable verbal abuse or aggression; or (2) Displays behavior that places another tenant at risk; or d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or e. Is under the age of 18; or f. Requires more than part-time intermittent health related care; or g. Has unmanageable incontinence on a routine basis despite an individualized toileting program; or h. Is medically unstable; or i. Requires maximal assistance with activities of daily living. (IAC r. 481-69.23(1)

B. Transportation

Monitoring Observation: The program provided copies of the driver's license for the two employees Staff #1 and Staff #3, who drove the program van for activities and tenant transportation. Both licenses were Class C and lacked the required endorsements to drive a vehicle with passengers for employment. The manager concurred with the findings and stated that no one would drive the van until the proper licenses were obtained.

Regulatory Insufficiency: When transportation services are provided directly or under contract with the program, the driver shall have a valid and appropriate 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))