IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED

Complaint Intake #: 44178-I
44343-C

July 31, 2013

Ms. Kris Trotter, Director
Bickford Cottage Cedar Falls
5101 University
Cedar Falls, IA 50613

RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL COMPLAINT/INCIDENT INVESTIGATION REPORT - BICKFORD COTTAGE CEDAR FALLS
II. Reduction of Civil Penalty
III. Appeals/Hearings
IV. Conclusion

Dear Ms. Trotter:

I. Final Complaint/Incident Investigation Report – Bickford Cottage Cedar Falls, Cedar Falls, 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 an investigation by DIA on **July 1, 2013.** The Report notes Regulatory Insufficiencies in the area(s) of: Life Safety and Service Plans.

Bickford Cottage Cedar Falls ("Program") is being assessed a **$1,000 civil penalty** pursuant to Iowa Code section 231C.14(1)(a) and 481 IAC 67.12(3)(a)(1).

Pursuant to Iowa Code section 231C.14(1)(a) and 481 IAC rule 67.12(3)(a)(1), a program's noncompliance that results in imminent danger or a substantial probability of resultant death or physical harm to a tenant may be assessed a civil penalty of not more than $10,000.

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.

The determination of a **$1,000 civil penalty** is based upon noncompliance resulting in imminent danger or substantial probability of resultant death or physical harm. As the enclosed Report details, the Program was aware a door was not alarming consistently since May 2013. Staff turned off a door alarm because it would not stop sounding and a tenant eloped from that door on June 2, 2013.

II. Reduction of Civil Penalty

If, within 30 days of the notice or service of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) 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 do not wish to request a formal hearing or 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 to the State of Iowa in the amount of **six hundred fifty dollars ($650)** within 30 days after the notice or service of this demand letter.

III. Appeals/Hearings

The Program may appeal the DIA decision within thirty (30) days of the notice or service of this demand letter by submitting a written request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481—10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of the notice or service of this demand letter.

IV. Conclusion

The Program is being assessed a **$1,000 civil penalty** pursuant to Iowa Code section 231C.14(1)(a) and 481 IAC 67.12(3)(a)(1). The Plan of Correction (POC) submitted on July 25, 2013, has been reviewed and will constitute the final POC related to the on-site visit of July 1, 2013.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal the final findings, the Program may do so within 30 days of notice or service of this letter.

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,

Jim Friberg

Jim Friberg, Acting Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program:

Bickford Cottage Cedar Falls
Kris Trotter, Director
5101 University
Cedar Falls, IA 50613

Complaint/Incident Intake #:

44178-I
44343-C

Date of Complaint/Incident Investigation:

July 1, 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 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:	29
Number of tenants with cognitive disorder:	8
Total Population of Program at time of on-site	
TOTAL census of Assisted Living Program	37

Program History – The program received a regulatory insufficiency in the area of Record Checks during the December 12, 2012, Recertification on-site.

Complaint/Incident Investigation – The Complaint/Incident investigator made the observations detailed in the following areas:

A. Program Reporting to the Department

Complaint/Incident Allegation 44343-C and 44178-I: It was alleged the program did not report an elopement to the department within the required timeframe.

- Monitoring Observation: The program identified a tenant eloped from the program's side service door on Sunday 6-2-13 at approximately 4:30 p.m. The state climatologist reported the temperature was 71 degrees with a clear sky and a wind of eight miles per hour on 6-3-13 at 4:54 p.m. at the nearby Waterloo airport. The Registered Nurse (RN) completed the report to the department on the internet reporting system 6-3-13 and inadvertently saved the document instead of submitting it. The RN reported she called the department on 6-3-13 but did not get a return call until 6-4-13 confirming that the elopement was a reportable incident. The RN stated that she checked the web site daily and observed the status of the report which continued to say the report was in review. On 6-10-13, the RN called the department's complaint department and was advised the report had not come in because she had not pushed the submit button. An e-mail document from the complaint department confirmed the RN's statement. The RN submitted the report at that time. There was no attempt on the part of the program to withhold the report of the elopement.

- Regulatory Insufficiency: None noted.

B. Life Safety

Complaint/Incident Allegation 44343-C: It was alleged the program was aware of the malfunctioning alarm on the west service entrance door and failed to have it repaired properly.

- Monitoring Observation: Tenant #1, an 82 year old, was admitted 8-1-11 with diagnoses of: Alzheimer's, Cardiomyopathy, Coronary Artery Disease, Hypertension, Essential Tremor, and Glaucoma. Tenant #1 scored six on the Global Deterioration Scale (GDS) dated 5-20-2013 which indicated severe cognitive decline. The functional assessment completed 5-20-13 documented Tenant #1 had a shuffling gait but could ambulate independently. The service plan dated 5-21-13 documented Tenant #1 was confused and at risk for attempting to leave the building so a Home Free watch was to be on the Tenant at all times. The Home Free watch automatically sets off the door alarm if the tenant is near to the door when it opens. The incident report completed by Staff #3, Licensed Practical Nurse (LPN), documented Tenant #1 was observed by a visitor to have exited the west side service door and fallen after taking only a few steps. The visitor entered the building to inform the LPN who was in the medication room. Tenant #1 was sent to the hospital and found to have minor abrasions. The monitor observed Tenant #1 on 7-1-13 seated in a wheelchair eating the noon meal independently wearing a Home Free watch.

  The monitor observed all exit doors from the program and found all with red lights indicating they were armed. The west service door failed to sound at 11:15 a.m. on 7-1-13 when the safety bar was pressed and the door did not open in 15 seconds as is required of an egress door. When the door was opened using the code, it did not shut tight to seal and reset the magnet alarm. The Director was made aware and posted a staff person to monitor the door until it could be repaired.

  Staff #1, maintenance person, reported during interview on 7-1-13 at 11:50 a.m. that The door alarm on the side service door had been alarming off and on randomly during the month of May. The corporate office had been notified of the problem 5-24-13 and he had tried to adjust the alarm five or six times himself. An outside company was hired to fix the door but that did not happen until after Tenant #1 eloped. The Maintenance Log dated 5-16-13 documented a report that the alarm was not working on the entrance to the back door. The door kept buzzing even after the door was shut.

  Staff #2 reported the side service entrance door had not been working properly off and on since May 2013.

  Staff #3 who was working on the evening of 6-2-13, reported that the service door alarm would not stop sounding so it had been turned off. The alarm remained off for at least a week. The light on the alarm box was green during that time period indicating it was not armed. Staff #3 was not sure of the dates when the alarm was not armed. Staff #3 reported Tenant #1 was last seen at a music activity at 4:00 p.m. on 6-2-13. Tenant #1 could walk independently at that time with a slow shuffling gait. Staff #3 reported Tenant #1 was not wearing a Home Free Watch since at least the time of his/her return from a hospital stay which occurred in May. Staff #3 stated

Tenant #1 usually attempted to leave from either the front door or the door near his/her apartment. Staff #3 did not hear any alarm when Tenant #1 eloped.

Staff #4, a certified nurse aide who was working on the evening of 6-2-13, reported that the side service door had been broken for over a month and did not shut all the way. The door could be entered and exited without setting off the alarm until last week when it was repaired after Tenant #1 eloped. She was working with another aide at the time of the elopement and did not hear any door alarms.

The RN stated that she was alerted about the elopement around 5:00 p.m. on 6-2-13. She came to the program on 6-3-13 and made a report to the department and reviewed the incident report completed by Staff #3. The incident report indicated Tenant #1 walked out a door that was broken. The RN asked Staff #3 about what she meant by broken and she said the door alarm goes off all the time. The RN reported that she knew the Director was aware the door was malfunctioning and was working on getting the door fixed. The RN stated that every tenant with a GDS score over four was to be wearing a Home Free Watch; however, Tenant #1 had returned from a hospital stay 5-21-13 and did not have a monitoring watch placed until 6-3-13 after the elopement.

An invoice dated 6-21-13 from an outside door service documented that the technician had replaced the cracked door contact, adjusted the door latch, adjusted the ajar relay switch and mag lock and replaced two key pads. The report also stated the door frame is extremely loose and needed to be replaced.

The Director provided documentation of a checklist for the Home Free Testing. The checklist dated 5-21-13 documented that the side service door had been checked and the door was loose so the corporate office had been notified per e-mail. The checklist dated 6-4-13 documented the door had been repaired with a new Home Free sensor.

At 3:45 p.m. on 7-1-13, a service man demonstrated that the door was repaired and functioning. He stated that after repeated opening the door, the magnet would get moved and would not make contact to set off the alarm. The Director stated she would set up daily checks by the maintenance person for correct operation of the door until a complete new door could be installed.

The program was aware that the west side entrance door was not alarming properly since early May 2013. Although they attempted to fix the problem, Tenant #1 eloped through the door without the alarm sounding on 6-2-13 and at the time of the on-site visit 7-1-13, the door did not alarm or shut properly.

- Regulatory Insufficiency: An operating alarm system shall be connected to each exit door in a dementia-specific program. (IAC r. 481-69.32(2))

The following information was identified during the investigation.

C. Service Plans

- Monitoring Observation: Tenant #1 scored six on the Global Deterioration Scale (GDS) dated 5-20-2013 which indicated severe cognitive decline. The service plan dated 5-21-13 documented Tenant #1 was confused and at risk for attempting to leave the building so a Home Free watch was to be on the Tenant at all times. This watch worn by the tenant sets off a sounding alarm if any exit door is opened near them. The RN stated that every tenant with a GDS score over four was to be wearing a Home Free Watch; however, Tenant #1 had returned from a hospital stay 5-21-13 and did not have a monitoring watch placed until 6-3-13 after he/she had eloped from the malfunctioning west side service door.

  The service plan developed for Tenant #1's safety was not followed leaving the tenant at risk for eloping from the program.

- Regulatory Insufficiency: A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22 (1) and 69.22 (2) and shall be designed to meet the specific needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed. (IAC r. 481-69.26 (1))