IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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RODNEY A. ROBERTS, DIRECTOR

DEMAND LETTER
CERTIFIED

Complaint Intake #: 41696-CR2
42594-CR
42618-CR
43726-C
43742-C
43575-C
44016-C
44256-M

August 13, 2013

Ms. Kara Ludlum, Interim Administrator
Oak Park Place Assisted Living
1381 Oak Park Place
Dubuque, IA 52002

RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL COMPLAINT/INCIDENT & COMPLAINT/INCIDENT REVISIT INVESTIGATION REPORT - OAK PARK PLACE ASSISTED LIVING
II. Reduction of Civil Penalty
III. Appeals/Hearings
IV. Conclusion

Dear Ms. Ludlum:

I. Final Complaint/Incident & Complaint/Incident Revisit Investigation Report – Oak Park Place Assisted Living, Dubuque, IA

Enclosed is the **Final Complaint/Incident & Complaint/Incident Revisit 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 **June 19, 20, 26, 27 & July 2 & 3, 2013.** The Report notes Regulatory Insufficiencies in the area(s) of: Service Plans and Noncompliance with Plan of Correction.

Oak Park Place Assisted Living ("Program") is being assessed a **$1,500 civil penalty** pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 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 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 Report reflects that the Program failed to comply with regulatory requirements which have been cited previously by the Department. The Program previously received Regulatory Insufficiencies in the areas of Service Plans and Noncompliance with Plan of Correction.

The determination of a **$1,500 civil penalty** is based upon repeated Regulatory Insufficiencies in the area(s) of: Service Plans and Noncompliance with Plan of Correction. As the enclosed Report details, the Program failed to individualize or update Service Plans for two tenants and failed to comply with their own Plan of Correction.

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 **Jim Berkley** and remit the civil penalty assessed by check or money order to the State of Iowa in the amount of **nine hundred and seventy five dollars ($975)** 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 **$1,500 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 August 5, 2013, has been reviewed and will constitute the final POC related to the on-site visit of June 19, 20, 26, 27 & July 2 & 3, 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, Jim Berkley, at 515/281-4116.

Sincerely,

Jim Friberg

Jim Friberg, Acting Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program:

Kara Ludlum, Interim Administrator
Oak Park Place Assisted Living
1381 Oak Park Place
Dubuque, IA 52002

Complaint/Incident Intake #:

41696-CR2
42594-CR
42618-CR
43726-C
43742-C
43575-C
44016-C
44256-M

Date of Complaint/Incident & Complaint/Incident Revisit Investigation:

June 19, 20, 26, 27 & July 2 & 3, 2013

Monitor(s):

Hal L. Chase, RN BSN MPH
Stephanie Cummins, MA

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:	34
Number of tenants with cognitive disorder:	2
Total Population of Program at time of on-site	36

Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	2
Number of tenants with cognitive disorder:	16
Total Population of Program at time of on-site	18
TOTAL census of Assisted Living Program	54

Program History – The program received regulatory insufficiencies in the areas of Criteria for Admission and Retention of Tenants, Policy and Procedures, Evaluations, Medications, Service Plans and Non-Compliance with Plan of Correction during this certification period.

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

A. Tenant Rights

Complaint/Incident Allegation #43575-C: It was alleged the Program provided confidential health information to an outside health company who was soliciting to tenants.

- Monitoring Observation: According to a Notice of Privacy Practices, the Program might use tenant's health information to evaluate staff performance, combine tenant health information with other tenants in evaluating how to service all tenants, and/or disclose tenant health information to Program staff and contracted staff for training purposes. The Program might use and disclose health information to tell tenants about or recommend possible treatment options or alternatives of interest.

  The Program's Confidentiality and Non-Disclosure Agreement indicated the Program's information systems contained confidential records regarding business operations, tenants, business associates, health care professionals and employees. The agreement was to clarify the duty and obligations regarding confidential information. One of the guidelines was to disclose confidential information only to those authorized to receive it.

Additional guidelines included to report any unauthorized access, use or disclosure of protected information and to abide by the Health Insurance Portability and Accountability Act policies and procedures established by the Program.

The Administrator provided a statement. According to the statement, the Administrator or the Program Nurse would discuss with tenants any issues and refer to primary physicians as needed for health issues. If it was determined it was a mental health issue the primary physician would make a referral and the tenant would be given the choice of whom they would like to be referred. Regarding how the Program obtained orders from the physician when admitted, the Program would call the physician and request History and Physical and a current medication list when the tenant was admitted from home or a facility.

The Program Nurse reported if a tenant needed additional services not provided by the Program, she would seek approval from the tenant of the service and would obtain a physician's order for the service.

Staff #20 and Staff #21 (marketing staff) were interviewed. They reported outside providers would often present their services to the Program. Information received would be given to the Administrator and Program Nurse for their own use. Outside providers were not and did not solicit their services directly to tenants.

Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.

Tenant #19, an 88 year old, was admitted on 6-24-11 and diagnoses included: Bilateral Lower Extremity Edema from a Thrombectomy, Colitis, History of Urinary Tract Infections (UTIs), Skin Cancer, Depression, Diverticulosis and Bilateral Cataracts. On 7-22-11, Tenant #19 was staged at a three on the Global Deterioration Scale (GDS), which indicated mild cognitive decline. Tenant #19 was discharged on 10-3-11. According to a Progress Note, Tenant #19 was seen by a nurse practitioner for follow up for concerns of major depression in memory difficulty (Tenant #19 had been previously seen). According to Health/Functional Assessment Updates (narrative notes), on 8-17-11 Tenant #19 was seen and an order to increase Celexa to 20 milligrams (mg) by mouth daily and to check routine labs at the next primary care provider (PCP) visit was ordered. There was an order on 8-18-11 to change Celexa back to 10 mg by mouth daily and the lab orders were cancelled. The notes dated 8-19-11 indicated family requested Tenant #19 not continue to follow up with the geriatric psychiatry physicians. The file indicated Tenant #19 had been previously seen by the nurse practitioner and was seen as a follow up. According to a Program record, Tenant #19 signed a document that gave permission to put Tenant #19's name and apartment number in the directory. The document indicated it would only be available within the Program's Community.

Tenant #25, an 86 year old, was admitted on 1-25-12 and diagnoses included: Hypertension (HTN), Gastro Esophageal Reflux Disease (GERD), Congestive Heart Failure (CHF), Osteoporosis, Renal Insufficiency and Dementia. Tenant #25 was discharged on 5-29-13. On 4-20-13, Tenant #25 was staged at a four on the GDS, which indicated moderate cognitive decline.

According to Cognitive/Health/Functional Assessment Updates (narrative notes) dated 3-9-12, Tenant #25 exhibited some depression regarding the loss of Tenant #25's spouse. Family was notified of the concern and asked that a nurse practitioner be called. An order was received for Lexapro 5 mg by mouth daily. According to a Progress Note, Tenant #25 was seen for follow up for concerns of dementia (Alzheimer's type in the moderate range) and depression following the death of Tenant #25's spouse. The file indicated Tenant #25's family requested the Program call the nurse practitioner regarding treatment for Tenant #25.

Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants reported privacy was respected regarding their health care information.

Review of tenant files, review of policies, tenant interviews, staff interviews, an interview with the Program Nurse and a statement from the Administrator did not reveal concerns with the Program providing health care information to any outside company soliciting information.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #44256-M: The Program reported an allegation of abuse. It was alleged a staff grabbed a tenant roughly during a transfer.

- Monitoring Observation: A mandatory dependent adult abuse investigation was initiated on 6-19-13. An alleged perpetrator and dependent adult were identified and the investigation was ongoing.

- Regulatory Insufficiency: None noted.

B. Criteria for Admission and Retention

During the onsite complaint investigation revisit #42618-C of 3-12-13 through 3-14-13, the Program received a regulatory insufficiency for retaining Tenants #9 and #10, who exceeded admission and retention criteria.

- Monitoring Observation: Tenant #9 was discharged on 5-24-13. Tenant #10 was discharged on 5-6-13.

  Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed. The Program had applied for a waiver of administrative rule regarding level of care for Tenant #30. Review of tenant files did not reveal concerns regarding level of care.

- Regulatory Insufficiency: None noted.

C. Evaluation

During the onsite complaint investigation revisit #41696-C of 3-12-13 through 3-14-13, the Program received a regulatory insufficiency for not completing functional, cognitive and health evaluations with a significant change in health status for Tenants #7 and #8.

- Monitoring Observation: Tenant #8 was discharged on 1-31-13.

  Tenant #7, an 81 year old, was admitted on 6-21-12 and diagnoses included: Chronic UTIs, Intermittent Confusion, Atrial Fibrillation, HTN, Polio, Depression and Stress Incontinence. Tenant #7 had evaluations completed as needed and the health evaluation reflected a History of UTIs and intermittent confusion.

  Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed. Review of tenant files indicated evaluations were completed as needed with a significant change in health status.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43726-C: It was alleged tenants had fallen outside and were getting hurt.

- Monitoring Observation: Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.

  Incident reports for the past three months indicated at least 30 tenants had fallen. Thirteen tenants sustained minor injury and received treatment from either a hospital emergency room, physician ordered treatment or a nursing intervention. Seventeen tenants had falls or suspected falls without injury. In each incident the Program Nurse directed staff related to the care given for each tenant. One incident report for a fall outside was found. The incident report pertained to an incident with Tenant #15.

  Tenant #15, an 83 year old, was admitted on 1-29-10 and diagnoses included: Dementia, History of Anxiety, Depression, History of Left Hip Dislocation (December 2004) and UTIs. Tenant #15 was staged at five on the GDS, which indicated moderately severe cognitive decline. Tenant #15 resided in a dementia unit.

  According to an Incident Report, on 4-15-13 Tenant #15 was outside walking to the bus for a scenic drive with activity staff and other tenants. Activity staff heard Tenant #15 yell out and Tenant #15 was on the ground with a laceration above the right eye. The laceration was about two inches long. Nursing staff was notified, 911 were called and family was notified. Tenant #15 was transported to the hospital. According to Interdisciplinary Progress Notes dated 4-17-13, Tenant #15 had fractured left ribs and a 2.5 centimeter laceration above the right eyebrow. The Administrator reported at the time of the incident Tenant #15 ambulated independently. Evaluations were completed and the service plan was updated as needed. An incident report was completed.

Staff #10, #17, #18 and #19 reported tenants had fallen in the past three months, but were not aware of a tenant who had fallen outside of the Program. Staff #11 reported Tenant #5 had fallen when he/she was out of the Program with family, but had been treated. The Program Nurse reported she was not aware of any tenants who sustained an injury outside of the Program and had not been treated appropriately.

Review of incident reports, tenant files, staff interviews and an interview with the Program Nurse did not reveal concerns regarding a tenant fall outside and lack of treatment for the fall.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43726-C: It was alleged tenants with UTIs were not being treated.

- Monitoring Observation: Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed. Tenants #7 and #13 had UTIs.

  Tenant #7's file was reviewed. Tenant #7 had a diagnosis of Chronic UTIs and the service plan reflected the Chronic UTIs and interventions. According to Interdisciplinary Progress Notes dated 4-8-13, Tenant #7 complained of UTI symptoms, the urine was dark and foul smelling and Tenant #7 was becoming confused. An order was obtained for a urine analysis (UA). According to a Physician's Telephone Orders dated 4-9-13, the UA results were positive for a UTI and Macrobid 100 mg by mouth twice daily for five days was ordered. The April Medication Administration Record (MAR) reflected Macrobid 100 mg take one tablet twice daily for five days.

  Tenant #13, an 82 year old, was admitted on 12-10-12 and diagnoses included: Previous Stroke with Mild Multi Infarct Dementia, Aortic Valve Replacement, Chronic Kidney Disease, CHF, History of UTIs, Hyperlipidemia, HTN, Anemia, and History of Colon Cancer. Tenant #13 was staged at a five on the GDS, which indicated moderately severe cognitive decline. Tenant #13 resided in a dementia unit. Interdisciplinary Progress Notes dated 6-5-13 indicated a UA was obtained. On 6-10-13 a new order for Amoxicillin 500 mg twice daily for five days for a UTI was ordered, according to the notes. The June MAR reflected Amoxicillin 500 mg by mouth twice daily for five days.

  Staff #10, #11, #17, #18 and #19 were interviewed and reported they were not aware of any tenants who had a UTI and had not been treated with antibiotic therapy. The Program Nurse was interviewed and reported there were a number of tenants who had a history of UTIs. Each had been successfully treated with antibiotics and she was not aware of any tenants who had not been treated for a UTI.

  Review of tenant files, staff interviews and an interview with the Program Nurse did not reveal any concerns with lack of treatment for UTIs.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43726-C: It was alleged the Program did not weigh tenants weekly.

- Monitoring Observation: Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.
  Staff #10 reported the Program required tenants to be weighed weekly. Staff #11 reported she knew tenants in the downstairs dementia unit were weighed weekly, but did not know of other tenants were. Staff #17 reported that tenants are weighed monthly, not weekly. Staff #18 and #19 reported not all tenants were weighed, Tenants #26 and #29 were weighed daily and their weight was recorded in the MARs.

  The Program Nurse reported tenants were not weighed weekly unless ordered by a tenant's physician, but that Tenants #18 and #26 were weighed daily.

  Tenant #18, a 73 year old, was admitted on 2-19-13 and diagnoses included: Depression, Diabetes Mellitus, Reflux, Prostate Cancer, Compression Fractures (Thoracic and Lumbar Spine), Peripheral Vascular Disease and Large Cell Lymphoma. The MARs reflected a daily weight was obtained for May and June 2013 (through the time period in June at which the MAR was collected).

  Tenant #26, an 89 year old, was admitted on 11-30-10 and diagnoses included: History of Atrial Fibrillation, Pacemaker, Decreased Esophageal Mobility, HTN and Seizure Disorder. The MAR reflected a daily weight was obtained daily for June 2013 (through the time period in June at which the MAR was collected).

  Review of tenant files and an interview with the Program Nurse indicated tenants were weighed as needed or as ordered.

- Regulatory Insufficiency: None noted.

D. Service Plans

During the onsite complaint investigation revisit #41696-C of 3-12-13 through 3-14-13, the Program received a regulatory insufficiency for not updating service plans with significant change and for not identifying identified needs and preferences for assistance with Tenants #7, #8, #9, #11 and #13.

- Monitoring Observation: Tenant #8 was discharged on 1-31-13. Tenant #9 was discharged on 5-24-13. Tenant #11 was discharged on 3-18-13.

  Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.

  Tenant #7's file was reviewed. Tenant #7's service plan was updated and reflected Tenant #7 had a History of Chronic UTIs and had intermittent confusion. The service plan indicated staff was to observe for signs and symptoms of a UTI including: burning with urination or foul odor to urine.

The service plan indicated Tenant #7 had intermittent episodes of confusion, staff was to orientate to current time, place and surroundings. Tenant #7 had been aware of increased confusion and to provide reassurance and comfort to reduce anxiety. The service plan addressed Tenant #7's UTIs and intermittent confusion and provided interventions.

Tenant #13's file was reviewed. The service plan reflected Tenant #13 referred to other tenants in the dementia unit as Tenant #13's late spouse or a family member. Tenant #13 got very close, wanted to hold hands, hug and sit on their laps at times. Staff needed to redirect Tenant #13 at those times and staff could call Tenant #13's family members on the phone to distract. Haldol as needed for treatment of agitation/inappropriate behaviors. When Tenant #13 was out of the apartment, staff was to monitor whereabouts and monitor any interactions Tenant #13 had with any other tenants. If Tenant #13 showed any interactions with other tenants that were not appropriate, staff was to redirect Tenant #13 and ask Tenant #13 to come with staff, call family on the phone to talk with Tenant #13 and call the nurse for assistance. Tenant #13 mistook another tenant for Tenant #13's spouse and staff was to notify a registered nurse (RN) or licensed practical nurse of any interactions that were not appropriate and complete an incident report. A notation was made on the service plan dated 6-18-13, which indicated Tenant #13 no longer displayed those behaviors and staff was to continue to monitor and report to nursing if noted. Tenant #13's service plan reflected behaviors, interventions and also indicated the behaviors were no longer displayed.

During the course of the investigation, the following information was obtained:

Tenant #15's file was reviewed. Interdisciplinary Progress Notes dated 5-1-13 indicated Tenant #15 was admitted to Hospice and new orders were noted. According to a Hospice record, on 5-1-13 a mechanical soft diet and offer a nutritional supplement six ounce at 2:00 p.m. and 6 p.m. was ordered. Interdisciplinary Progress Notes dated 6-2-13 indicated Tenant #15's family reported Tenant #15 was not getting the mechanical soft diet. The kitchen was informed and a slip was written out for them regarding the mechanical soft diet which was ordered on 5-1-13. According to a Hospice record, on 6-17-13 it was ordered to discontinue the set up nutritional supplement and it was to be given as a meal replacement when Tenant #15 did not eat a meal. The service plan did not reflect the mechanical soft diet and nutritional supplement. The service plan did not reflect the identified needs of Tenant #15.

Tenant #27, a 77 year old, was admitted on 3-21-12 and diagnoses included: Increased Falls, GERD, Depression, Hyperlipidemia, HTN, Hyperglycemia, Non-Hodgkin's Lymphoma and Osteoporosis. Tenant #27 was discharged on 6-16-13. According to an Incident Report, on 5-31-13 staff was walking with Tenant #27 to the dining room for lunch, staff let go of the gait belt to open the door and Tenant #27 lost balance and fell backwards. Tenant #27 complained of tailbone pain. Tenant #27 was transported to the hospital. Tenant #27 was diagnosed with a coccyx contusion and a donut while sitting for comfort was ordered. The donut was not reflected on the service plan. The service plan did not reflect the identified needs of Tenant #27.

Review of tenant files indicated service plans did not reflect the identified needs of the tenants.

- Regulatory Insufficiency: The service plan shall be individualized and shall indicate, at a minimum: The tenant's identified needs and preferences for assistance. (IAC r. 481-69.26(4)(a))

Complaint/Incident Allegation #44016-C: It was alleged tenants did not receive a bath.

- Monitoring Observation: Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.

  Tenant #20, a 93 year old, was admitted on 5-25-13 and diagnoses included: Atrial Fibrillation (Coumadin), Acute CHF, Transient Hypokalemia, Transient HTN and Chronic Hypothyroidism. Tenant #20 was discharged on 6-3-13. Tenant #20 scored a 30/31 on the cognitive tool, which indicated normal. The service plan indicated Tenant #20 had a shower or whirlpool two times per week with stand by assistance, set up all other days. According to a shower/whirlpool schedule, Tenant #20 received a shower on 5-31-13. Tenant #20 moved out on 6-3-13. Documentation could not be found for a shower/whirlpool from the time of occupancy (5-25-13) until the first shower was documented on 5-31-13; however, Tenant #20 had normal cognitive functioning per the cognitive tool and documentation of routine tasks was not required by administrative rule.

  Tenant #27's file was reviewed. The service plan indicated Tenant #27 received a shower, with assist of one three times weekly. According to a shower/whirlpool schedule, Tenant #27 refused bathing on 5-20-13, had a shower on 5-24-13 and 5-27-13.

  Staff #10 and #17 reported tenants who needed assistance with bathing were bathed according to the bath schedules. Staff #11 reported tenants who did not receive a whirlpool bath would be showered. Staff #18 reported tenants were routinely bathed if they needed assistance. Staff #19 reported tenants who needed assistance with bathing were placed on a bathing schedule.

  The Program Nurse reported tenants who needed bathing assistance were placed on a bathing schedule. Tenants had the choice of receiving a whirlpool bath or shower. A tenant occasionally refused bathing but not routinely. The Program Nurse was not aware of any tenant who had not received routine bathing assistance.

  Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. There were no concerns reported regarding lack of bathing services provided if the tenants received bathing assistance.

  While a deviation from 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.

E. Medications

During the course of the onsite complaint investigation revisit #41696-C and complaints #42594-C and #42618-C of 3-12-13 through 3-14-13, the Program received a regulatory insufficiency for not administering medications in accordance to requirements in 655-Chapter 6 governing nurse delegation related to Tenants #1, #9, #10, #15, #17 and #18.

- Monitoring Observation: Tenant #1 was discharged on 3-20-13. Tenant #9 was discharged on 5-24-13. Tenant #10 was discharged on 5-6-13. MARs for Tenants #15, #17 and #18 indicated medications were consistently documented as administered.

  Program records indicated a mandatory staff in-service was held on 3-28-13 related to the Program's policy on medication administration.

  A monitor observed Staff #18 administered medications in accordance to the requirements governing nurse delegation – medication administration. Review of MARs of 6-1-13 through 6-27-13 indicated medication administered was documented appropriately.

  Review of MARs, documentation of an in-service and observation of a medication pass indicated medications were administered in accordance with 655-Chapter 6 governing nurse delegation.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43726-C: It was alleged the Program had medication errors and covered up medication errors made by staff. Syringes used to administer narcotics were missing and/or left out.

- Monitoring Observation: Narcotic count sheets used by the Program of 6-1-13 through 6-27-13 indicated two staff accurately counted stored narcotics at the beginning and end of each shift. Narcotics administered by the Program did not include narcotics administered by syringe.

  A review of medication incident reports of 3-28-13 through 6-22-13 indicated at least 11 incidents of medication errors. Each medication error report identified the description of the medication error(s) and corrective action. Staff #10, #11, #18 and #19 reported they knew of no cover-up of medication errors made by staff. The Program Nurse reported she did not know of any cover up of medication errors made by staff.

  A monitor observed Staff #18 administered medications in accordance to the requirements governing nurse delegation – medication administration. Review of MARs of 6-1-13 through 6-27-13 indicated medications administered were documented appropriately.

Review of narcotic count sheets, medication error incident reports, staff interviews, and interview with the Program Nurse and observation of a medication pass did not reveal concerns regarding medication errors being covered up or syringes used to administer narcotics being left out or missing.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43742-C: It was alleged tenants were not receiving their insulin injections in addition to other medication prescribed. It was alleged medications had been found in furniture in the dementia unit.

- Monitoring Observation: The Program Nurse identified two tenants with insulin.

  Tenant #18's file was reviewed. Tenant #18 had an order for Novolog 70/30 Flex Pen inject 20 units subcutaneously in the morning and Novolog 70/30 Flex Pen inject 5 units subcutaneously in the evening. The MAR from 6-1-13 through 6-19-13 indicated insulin was given as ordered.

  Tenant #21, an 85 year old, was admitted on 2-23-13 and diagnoses included: Insulin Dependent Diabetes, History of UTIs, Coronary Artery Disease, Hyperlipidemia, HTN and Constipation. Tenant #21 had an order for Humalog Kwik Inject 100/milliliters (ML) inject 6 units subcutaneously three times daily with meals. The MAR reflected Tenant #21 administered it per self. Tenant #21 had an order for Lantus Injection 100/ML inject 8 units subcutaneously at bedtime. The MAR reflected Tenant #21 administered it per self. The service plan reflected Tenant #21 was diabetic, checked own blood sugar and administered own insulin.

  Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants received the services requested including medications if they were assisted with medications.

  The Program Nurse reported medication administered to tenants were available when needed and knew of no shortage. Staff #10, #11, #18 and #19 reported medications administered to tenants as ordered and knew of no shortage.

  The Program Nurse and Staff #10, #11 reported staff had mistakenly dropped medication when attempting to administer to a tenant, was unsuccessful in finding the medication when that happened, only to find the medication later. Staff #18 reported she had not found medications in the dementia unit that was administered to tenants. Staff #19 reported tenants had spit out medications when medication was administered and staff attempted to find where the medication had landed, but was not always successful in finding the medications.

  Medications were not observed on the floor or on furniture in the dementia at the time of the investigation.

  Per interviews medications at times were found due to staff previously dropping the medication or tenants spitting out the medication and not being able to locate the medication.

While a deviation from 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.

F. Staffing

Complaint/Incident Allegation #44016-C: It was alleged tenant call lights were not answered and administrative staff was not helpful.

- Monitoring Observation: Fourteen tenant files (Tenants #7, #13, #15, #17, #18, #19, #20, #21, #22, #23, #25, #26, #27 and #30) were reviewed.

  According to the Program's Pendant Incident document, any tenant's pendant not answered within 10 minutes needed a reason documented for the delay.

  Pendant history records were obtained for Tenants #13, #20, #21 and #25 from 5-20-13 to 6-20-13.

  Tenant #13's average response time was 7.2 minutes with a total of one call. Tenant #20's average response time was 7.4 with a total of six calls. Tenant #20 had two pendant incidents; one report indicated on 6-1-13 at 7:27 p.m. the pendant was activated and the total time on was 20:07 minutes until the call was answered. The description on the report indicated all staff was assisting other tenants to bed and all of Tenant #20's needs were met. The other pendant incident was on 6-1-13 at 7:56 p.m. and the total time the pendant was activated registered 13:35 minutes. The description on the report indicated all staff was assisting other tenants to bed at the time the pendant was pushed and all of Tenant #20's needs were met. Tenant #21's average response time was 13.7 minutes with a total of 19 calls. There were two pendant incidents; one report indicated on 5-20-13 the pendant was activated at 1:37 p.m. and the total time the pendant was active registered at 99:59 minutes. The description on the report indicated Tenant #21 accidentally pushed the pendant while out of the building. The other pendant incident was on 6-2-13 at 4:40 p.m. and the total time the pendant was active registered 92:49 minutes. The description on the report indicated it was passed on in report that Tenant #21 was out of the building. Tenant #25's average response time was 3.5 minutes with a total of two calls. Of the pendant history reviewed average response time for tenants studied was under 14 minutes. The Program's document provided a timeframe to respond to the pendant or complete a report if the call extended beyond the timeframe. The pendant incidents indicated either the tenant was out of the building or staff was with other tenants; however, tenant needs were met.

  The Program Nurse and Staff #10, #11, #18 and #19 reported there was sufficient staff to meet tenant personal and health care needs. A review of staff schedules of 4-1-13 through 6-16-13 indicated there were at least three staff available for the day and evening shift and one to two staff for the night shift in the general population and one to two staff for both dementia units for the day, evening and night shift.

Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. Tenants reported they received the services they expected and staff was trained to provide those services. Staff responded within 5 to 20 minutes or less when called. Tenants said administrative staff was helpful.

Review of pendant histories, tenant interviews, staff interviews and an interview with the Program Nurse indicated pendants were answered and tenant interviews indicated administrative staff was helpful.

While a deviation from 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 #43742-C: It was alleged staff used illegal drugs, was under the influence while working and it affected the care given to tenants.

- Monitoring Observation: Criminal background checks completed by the Program for the Administrator, the Program Nurse, Staff #16, #22, #23 and #24 were reviewed and revealed no concerns regarding illegal drug use.

  The Program Nurse, Administrator and Staff #10, #11, #17, #18 and #19 reported they were not aware of any staff working while under the influence of illegal drugs.

  Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants reported they received the services requested.

  Staff disciplinary action regarding the use of illegal drugs or alcohol was requested. The Program provided a Disciplinary Action Form for Staff #9. It was reported to the Program Nurse that an employee/co-worker alleged Staff #9 smelled of alcohol. Staff #9 denied allegations and refused to sign the form. Staff #9 had resigned prior to the allegation and left the program as it was Staff #9's last day of employment.

  Review of background checks, staff interviews, interview with the Program Nurse, interview with the Administrator, tenant interviews and review of staff disciplinary actions regarding the use of illegal drugs or alcohol did not reveal concerns regarding staff use of illegal drugs while working.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43742-C: It was alleged non-direct care staff were providing care assistance to tenants when they had not been trained.

- Monitoring Observation: The Program Nurse and Staff #10, #11, #18 and #19 reported they were not aware of non-direct care staff assisting tenants with personal and health-related cares.
  Staff #17, a housekeeper, reported she had previously transported tenants from the dining room to their apartments, but had not assisted tenant with direct cares.

The Program Nurse reported only direct care staff assisted tenants with cares. Staff #17 had transported tenants from the dining room to their rooms and direct care staff would then assist tenants. Staff #17's participation in transporting tenants had stopped weeks ago.

Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants received the services requested and staff was trained to provide the services requested.

Tenant interviews, staff interviews and an interview with the Program Nurse revealed there were no concerns with non-direct staff providing care assistance to tenants.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43726-C: It was alleged the Program was always short staffed. It was alleged there were so many tenants to assist, everyone passed medications and aides were left to take of care everything as administrative staff did not come up after hours.

- Monitoring Observation: The Program Nurse and Staff #10, #11, #18 and #19 reported there was sufficient staff to meet tenant personal and health care needs. A review of staff schedules of 4-1-13 through 6-16-13 indicated there were at least three staff available for the day and evening shift and one to two staff for the night shift in the general population and one to two staff for both dementia units for the day, evening and night shift.

  The Clinical On-Call Rotation policy and procedure was provided. The policy indicated a RN employed by the Program would be available for phone triage of emergency medical issues at all times. An RN On-Call Calendar would be posted in each community in an area easily assessable to all staff. After hours was defined as weekdays after 5:00 p.m., weekends starting on Friday at 5:00 p.m. and ending on Monday at 8:00 a.m. and all holiday hours. The June 2013 Nurse On-Call Schedule was provided and reflected nursing coverage.

  Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants reported they received the services expected and staff was trained to provide those services. Staff responded within 5 to 20 minutes or less when called. Tenants said administrative staff was helpful.

- Regulatory Insufficiency: None noted.

G. Structural Requirements

Complaint/Incident Allegation #44016-C: It was alleged tenant apartments were not cleaned as contracted and smelled of urine. It was alleged tenant garbage was not emptied.

- Monitoring Observation: The Program Nurse reported tenant apartments were cleaned weekly and more if needed. Occasionally there had been tenants residing in the dementia unit who had urinated on the floor, but staff and housekeeping had cleaned the floor or carpet immediately. Staff #10 and #11 reported a tenant has had an accident bowel movement in their apartment, but staff quickly cleaned the area. Staff #17 reported tenant apartments were cleaned regularly and she was not aware of any odor of urine. Staff #18 and #19 reported tenant apartments were cleaned weekly, but tenants had occasional incidents of urine incontinence, but staff cleaned the area quickly.

  Eight tenants (Tenants #18, #21, #22, #23, #24, #26, #28 and #31) were interviewed. The tenants reported their apartments were cleaned weekly, more often when needed and voiced no complaints. The tenants did not report any concerns regarding garbage removal. Tenants reported they had not smelled any malodors of urine or feces coming from any tenant apartments.

  During the onsite, monitors did not detect any malodors coming from common areas of the Program or from tenant apartments.

  Staff interviews, an interview with the Program Nurse, observations and tenant interviews did not reveal concerns with housekeeping services, garbage removal or malodors in the Program.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation #43742-C: It was alleged there were holes in floor near the kitchen and the elevator which was a tripping hazard and tenants were unable to get wheelchairs and walkers over the hazards.

- Monitoring Observation: Staff #16, the Maintenance Director, provided a statement. The statement was regarding the flooring issue located just off the assisted living elevator and by the kitchen entry door on first floor. There were several indentations/soft spots on the floor due to what he believed was the gypcrete flooring breaking away under the carpeting. He first noticed it approximately two months ago and it seemed to have broken away a bit more over time due to, in his opinion, every day wear and tear. To his knowledge there had been no reported injuries from tenants directly related to these issues. Staff #16 and the Regional Maintenance Director had looked at it and were in the process of putting together a plan of action. According to the statement, the carpeting would have to be torn up, gypcrete repairs made and new carpeting would need to be installed. Staff #16 had talked with the Regional Maintenance Director and they were going to address it as soon as possible.

  One incident report indicated a fall occurred in/around the elevator. The incident report dated 6-4-13 indicated staff exited the elevator with Tenant #27 and Tenant #27 fell back. Staff eased the fall; however, Tenant #27 bumped his/her head, land on the left side and "bottom." The incident report did not identify any issues with the elevator area or trip hazards related to the fall. Incident reports were reviewed for the past three months and did not reveal any incidents related to the flooring issue.

The area was observed and pictures of the area were obtained.

Review of incident reports, observation of the area and a statement from Staff #16 indicated there had been no incidents related to the issue and the Program was preparing a plan of action related to the issue.

- Regulatory Insufficiency: None noted.

H. Compliance with Plan of Correction

During the course of the onsite complaint investigation revisit #41696-C and complaints 42594-C and 42618-C of 3-12-13 through 3-14-13, the Program received a regulatory insufficiency for not following the plan of correction (POC) submitted to the Department related to Tenants #1, #7 and #8.

- Monitoring Observation: Tenant #1 was discharged on 3-20-13. Tenant #8 was discharged on 1-31-13. The Program followed the POC in regards to Criteria for Admission and Retention, Evaluations and Medications. The Program followed the POC as it related to Tenant #7 and Tenant #13 in regards to service plans; however, additional file reviews indicated service plans for Tenants #15 and #27 did not reflect the identified needs of the tenants.

- Regulatory Insufficiency: Within 10 working days following receipt of the preliminary report, the program shall submit a plan of correction to the department. (a) The plan of correction shall include: elements detailing how the program will correct each regulatory insufficiency, what measures will be taken to ensure the problem does not recur, how the program plans to monitor performance to ensure compliance, and any other required information. (IAC r. 481-67.10(5)(a))