IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
CERTIFIED
Complaint Intake #: 41696-CR3

November 14, 2013

Ms. Lori Steiner, Administrator
Oak Park Place Assisted Living
1381 Oak Park Place
Dubuque, IA 52002

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

Dear Ms. Steiner:

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

Enclosed is the **Final Complaint/Incident Revisit Investigation & Recertification 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 **September 25 - 27, 2013.** The Report notes Regulatory Insufficiencies in the area(s) of: Evaluations, Service Plans, Nurse Review, Structural Requirements and Compliance with Plan of Correction.

Oak Park Place Assisted Living ("Program") is being assessed a **$2500 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: Evaluations x 3, Service Plans x 3 and Compliance with Plan of Correction x 3.

The determination of a **$2500 civil penalty** is based upon repeated Regulatory Insufficiencies in the area(s) of: Evaluations x 3, Service Plans x 3 and Compliance with Plan of Correction x 3. As the enclosed Report details, the Program failed to complete evaluations for three tenants that exhibited changes in condition or required additional interventions. The Program has failed to update service plans on an ongoing basis and failed to comply with the plan of correction on three different occasions related to updating service plans.

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 **one thousand six hundred and twenty five dollars ($1,625)** within 30 days after the notice or service of this demand letter.

III. Sanctions – Conditional Operation

Due to the Program's noncompliance and current Regulatory Insufficiencies, the Program's Conditional Certificate remains in effect as of **October 24, 2013**.

Previous sanctions include: No new admissions. Proof of staff training on proper evaluations and service plan updates by an outside agency for all direct care workers and nursing staff within 30 days. The Program will have 30 days to complete the above training and provide proof of the training to the Department.

IV. 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.

V. Conclusion

The Program is being assessed a **$2500 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 November 4, 2013, has been reviewed and will constitute the final POC related to the on-site visit of September 25 - 27, 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 Revisit Investigation & Recertification Report

Assisted Living Program: **Complaint/Incident Intake #:** 41696-CR3

Lori Steiner, Administrator
Oak Park Place Assisted Living
1381 Oak Park Place
Dubuque, IA 52002

Date of Complaint/Incident Investigation:

September 25, 26 & 27, 2013

Monitor(s):

Hal L. Chase, RN BSN MPH

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:	38
Number of tenants with cognitive disorder:	5
Total Population of Program at time of on-site	43

Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	8
Number of tenants with cognitive disorder:	8
Total Population of Program at time of on-site	16
TOTAL census of Assisted Living Program	59

Tenant/Family Satisfaction Results – A community meeting was held in the dining room with 37 tenants in attendance. Tenants reported they liked living at the Program, but were unsatisfied with lack of housekeeping services offered. The Program had a full-time housekeeper until several weeks ago when direct care staff provided housekeeping services. Direct care staff had attempted to clean their apartments but often told tenants they didn't have time. A majority of tenants reported it had been two or more weeks since they had received housekeeping services and the common areas like the dining room, hallways and sitting rooms had not been cleaned and a good deal of dust was present.

Tenants reported they received good care and staff had been trained to provide the services they needed, but staff were often late in responding to their calls for assistance. Tenants reported it would often take 20 minutes or more for staff to respond. When staff responded they would tell tenants they were helping others and would return, only to have staff return 30 to 40 minutes later. Staff was polite, courteous and treated them with respect, but there were too few staff available.

Tenants reported the food was good, but often the hot foods were often cold and the wait time to be served was long. A variety of meats, vegetables and deserts were offered. Tenants requested additional activities on the weekends as there were none scheduled.

Tenants felt safe, made their own decisions related to personal and health-related cares. Tenants reported there had been tenant council meetings and their issues had been discussed, but to date there had been little change.

Program History – During the September 25, 26 & 27, 2013 Recertification and complaint revisit the Program received regulatory insufficiencies in the areas of: Tenant Rights, Evaluations, Service Plans, Nurse Review, Structural Requirements and Compliance with the Plan of Correction during this certification period.

Complaint/Incident Investigation Revisit and Recertification – The Complaint/Incident investigator(s) made the observations detailed in the following areas.

A. Evaluation

- Monitoring Observation: Six tenant files were reviewed. No issues were found related to evaluations for Tenants #27, #34 and #35.

  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 Urinary Tract Infections (UTIs). Tenant #15 was staged at five on the GDS, which indicated moderately severe cognitive decline. Tenant #15 resided in a dementia unit. Tenant #15 was admitted to hospice on 5-1-13, recertified with a primary diagnosis of Senile Dementia uncomplicated.

  Tenant #15 was re-certified to hospice on 7-30-13 with admitting diagnoses of: Alzheimer's Dementia and Subarachnoid Hemorrhage. Hospice notes indicated End Stage Dementia with Recurrent Respiratory Infections and anti-psychotic medication for anxiety and agitation.

  Interdisciplinary progress notes of 7-31-13 indicated a physician order was given to offer nutritional supplement as a meal replacement if Tenant #15 was not eating a meal. The service plan was updated to reflect this change but was then crossed off. Interdisciplinary progress notes of 8-21-13 indicated Tenant #15 was receiving Nystatin powder for abdominal folds as the area "still red." An order of 8-28-13 indicated an order to increase Nystatin twice daily for a yeast infection. Hospice notes of 8-29-13 indicated Tenant #15 was discharged from hospice.

  Functional, cognitive and health evaluations were not completed with a change in condition related to a recertification to hospice with new admitting diagnoses, a yeast infection and treatment and subsequent discharge from hospice.

  Tenant #32's file revealed a functional evaluation dated 4-18-13 that identified Activities of Daily Living needs for Tenant #32. A physical evaluation of the same date indicated Tenant #32's skin was intact.

  On 5-9-13, a physician's order was obtained for BAZA cream - to be used twice daily for open areas on Tenant #32's buttocks. On 6-3-13, a physician was notified staff had found Tenant #32 on the floor. Tenant #32 had not fallen but had placed self on the floor. Tenant #32 was clammy, diaphoretic and crackles were noted in right lung base. Tenant #32 was evaluated by a hospital emergency room. No other information was found in Tenant #32's file.

  On 6-10-13 Tenant #32's physician was notified Tenant #32 had increased behaviors of rectal digging and urinating "in odd places such as the sink and smirks and laughs" when redirected.

  Incident reports of 7-26-13 through 9-7-13 indicated Tenant #32 had at least five incidents of falls or suspected falls. An incident report of 9-7-13 indicated Tenant #32 was walking in the hallway and couldn't walk back to his/her room. Two staff was needed to assist Tenant #32 back to his/her room.

Interdisciplinary progress notes of 9-3-13 indicated Tenant #32's buttocks were healed. An order for BAZA cream was discontinued.

Nurse reviews were completed related to falls or suspected falls between 7-26-13 and 9-7-13. Notes of 9-6-13 indicated an order was obtained for a urinalysis (UA) and culture and sensitivity (C&S). Tenant #32 was started on ATB therapy twice daily for 10 days for a possible UTI. On 9-7-13 staff reported Tenant #32 needed two staff to assist with ambulation back to his/her room as Tenant #32 wasn't able to ambulate independently. An on-call physician was contacted and physical therapy evaluation and treatment was ordered.

Functional, cognitive and health evaluations were not completed with a change in condition related to open sores on the buttocks, rectal digging and inappropriate urination, possible UTI and ATB therapy and at least five incidents of falls or suspected falls between 7-26-13 and 9-7-13 and on 9-7-13 when Tenant #32 needed two staff to assist with ambulation an inability to walk without staff assistance.

Tenant #33, an 85 year old, was admitted on 1-2-13 and had diagnoses of: Dementia with Delirium, Carcinoid Syndrome, Recurrent Bowel Obstruction, History of Cerebral Vascular Accident, History of Coronary Artery Bypass Graft and Vitamin B-12 Deficiency. A GDS was completed on 3-13-13 and staged Tenant #33 at four, which indicated moderate cognitive decline. Tenant #33 was admitted to hospice on 3-13-13 with an admitting diagnosis of Carcinoid Syndrome. Hospice recertified on 6-11-13 through 9-8-13.

A health evaluation of 3-13-13 indicated Tenant #33's skin was intact, received program administered medications. A functional evaluation was completed on 4-16-13 and indicated Tenant #33 received staff assistance with all ADLs.

Interdisciplinary progress notes of 6-7-13 indicated a pressure alarm was used at all times due to recurrent falls. Notes of 6-12-13 through 9-10-13 indicated at least seven incidents of skin tears and/or open wounds/ulcers to the right hand, left calf and bilateral lower legs and left shin. Notes indicated wound care was completed by the hospice RN. Notes of 7-13-13 indicated staff reported Tenant #33's peri-area was pink and red. An order was received to apply BAZA cream twice daily until healed.

Notes of 7-23-13 indicated on 7-22-13 Tenant #33 had an episode of weakness while toileting and was unable to stand for transfer. Two staff transferred Tenant #33 to a wheelchair. A nurse review was completed on 7-23-13 and indicated no signs of increased weakness.

Notes of 8-23-13 indicated hospice ordered Tenant #33's medication could be crushed. Notes of 9-24-13indicated hospice ordered to discontinue ambulating Tenant #33 twice daily.

Functional, cognitive and health evaluations were not updated to reflect a change in condition as noted in interdisciplinary progress notes and hospice care notes related to the use of chair/bed alarm for recurrent falls, incidents of skin tears and open wounds and a change in ambulatory status.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human services professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change. (IAC r. 481-69.22(2))

B. Service Plans

During the course of the investigation of June 19, 20, 26, 27 & July 2 & 3, 2013, the Program received a regulatory insufficiency related to not updating Tenant #15 and 27's service plans to reflect identified needs and preferences for assistance.

- Monitoring Observation: Tenant #27 no longer resided at the Program.

During the course of the revisit of 9-26 & 27, 2013, the following information was obtained.

Six tenant files were reviewed. No issues were found related to service plans for Tenants #27, #34 and #35.

Tenant #15 was recertified to hospice on 7-30-13 with admitting diagnoses of: Alzheimer's Dementia-End Stage, Subarachnoid Hemorrhage and Recurrent Respiratory Infections. Anti-psychotic medication was given for anxiety and agitation.

Notes of 8-21-13 indicated Tenant #15 was receiving Nystatin powder for abdominal folds as the area "still red." An order of 8-28-13 indicated an order to increase Nystatin twice daily for a yeast infection. Hospice notes of 8-29-13 indicated Tenant #15 was discharged from hospice.

The service plan was not updated to include interventions related to a recertification to hospice on 7-30-13, increased agitation and anxiety, a yeast infection to abdominal folds and subsequent discharge from hospice on 8-29-13.

Tenant #32's file indicated on 5-9-13, a physician's order was obtained for BAZA cream - to be used twice daily for open areas on buttocks. On 6-3-13 staff found Tenant #32 on the floor. Tenant #32 had not fallen but had placed self on the floor. Tenant #32 was clammy, diaphoretic and crackles were noted in right lung base. Tenant #32 was evaluated by a hospital emergency room. No other information was found in Tenant #32's file.

On 6-4-13 Tenant #32's physician was notified Tenant #32 had increased behaviors of rectal digging and urinating "in odd places such as the sink and smirks and laughs when redirected. On 6-10-13 the physician responded with "see other condition report." No additional records were found.

Incident reports of 7-26-13 through 9-7-13 indicated Tenant #32 had at least five incidents of falls or suspected falls. An incident report of 9-7-13 indicated Tenant #32 was walking in the hallway and couldn't walk back to his/her room. Two staff was needed to assist Tenant #32 back to his/her room.

Notes of 9-3-13 indicated Tenant #32's buttocks were healed. An order for BAZA cream was discontinued.

Nurse reviews were completed related to falls or suspected falls between 7-26-13 and 9-7-13. Notes of 9-6-13 indicated an order was obtained for a UA and C&S. Tenant #32 was started on ATB therapy twice daily for 10 days for a possible UTI. On 9-7-13 staff reported Tenant #32 needed two staff to assist with ambulation back to his/her room as Tenant #32 wasn't able to ambulate independently. An on-call physician was contacted and physical therapy evaluation and treatment was ordered.

Service plan of 9-17-13 was updated to reflect interventions related to open areas on the buttocks, physical therapy evaluation and treatment, but the service plan updates were not supported by evaluations.

Tenant #33's interdisciplinary progress notes of 6-7-13 indicated a pressure alarm was used at all times due to recurrent falls. Notes of 6-12-13 through 9-10-13 indicated at least seven incidents of skin tears and/or open wounds/ulcers to the right hand, left calf and bilateral lower legs and left shin. Notes indicated wound care was completed by the hospice RN.
Notes of 7-13-13 indicated staff reported Tenant #33's peri-area was pink and red. An order was received to apply BAZA cream twice daily until healed.

Notes of 7-23-13 indicated on 7-22-13 Tenant #33 had an episode of weakness while toileting and was unable to stand for transfer. Two staff transferred Tenant #33 to a wheelchair. A nurse review was completed on 7-23-13 and indicated no signs of increased weakness. As of 9/24/13 tenant #33 was no longer using bed and chair alarms but this change was not reflected on the service plan.

Service plan updates were not supported by evaluations.

- Regulatory Insufficiency: A service plan shall be developed for each tenant based on the evaluation conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service 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))

- Regulatory Insufficiency: When a tenant needs personal care or health-related care, the service plan shall be updated within 30days of the tenant's occupancy and as needed with significant change, but not less than annually. (IAC r. 481-69.26 (3))

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

C. Nurse Review

- Monitoring Observation: Six tenant files were reviewed and indicated no issues related to Tenant #27.

  Tenant #15's file indicated a change in condition related to a recertification to hospice with new admitting diagnoses and a yeast infection. A 90-day nurse review was not consistently completed.

  Tenant #32 file indicated a change in condition related to open sores on the buttocks, rectal digging and inappropriate urination, possible UTI and ATB therapy and at least five incidents of falls or suspected falls between 7-26-13 and 9-7-13 and on 9-7-13 when Tenant #32 needed two staff to assist with ambulation an inability to walk without staff assistance. A 90-day nurse review was not consistently completed.

  Tenant #33's file indicated a change in condition as noted in interdisciplinary progress notes and hospice care notes related to the use of chair/bed alarm for recurrent falls, incidents of skin tears and open wounds and a change in ambulatory status.

  Tenant #34, an 82 year old was admitted on 9-11-12 and had diagnoses of: Alzheimer's Dementia, Hyperlipidemia, Osteoporosis, Degenerative Arthritis, Glaucoma, Venous Insufficiency, Cystic Breast Disease, Hypertension and Impaired Glucose Intolerance. A GDS was completed on 10-5-12 staged Tenant #34 at four, which indicated moderate cognitive impairment.

  Tenant #34 received staff assistance with personal and health related cares. Interdisciplinary progress notes indicated a 90-day nurse review was not consistently completed.

  Tenant #35, an 82 year old, was admitted on 3-11-12 and had diagnoses of: Dementia, Atrial Fibrillation, and a History of a Pacemaker placement and Hyperlipidemia. A GDS was completed on 8-23-13 and staged Tenant #35 at four, which indicated moderate cognitive impairment. A review of interdisciplinary notes of 4-22-13 through 9-12-13 indicated a 90-day nurse was not completed.

- Regulatory Insufficiency: To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders. (IAC r.481-69.27(1))

D. Structural Requirements

- Monitoring Observation: A community meeting was held in the dining room with 37 tenants in attendance. Tenants reported they liked living at the Program, but were unsatisfied with lack of housekeeping services offered. The Program had a full-time housekeeper several weeks ago and assigned housekeeping services to direct care staff. Direct care staff had attempted to clean their apartments but often told tenants they don't have time. A majority of tenants reported it had been two or more weeks since they had received housekeeping services and the common areas like the dining room, hallways and sitting rooms had not been cleaned and a good deal of dust was present.

  On 9-26-13 a monitor toured the two dementia units. Dementia Terrace was located on the first floor of the Program. A monitor inspected cabinets located in the commons area and noted nail polish remover-containing Acetone, was inside an unlocked cabinet. In another cabinet an Air Sanitizer and Deodorizer-contain Ethanol and Glycol was found. The monitor toured Tenant #36's apartment and bathroom and found a bottle of Raid Flying Insect spray and a bottle of Hy-Vee Disinfectant Powder spray was sitting on the bathroom counter adjacent to personal toiletries.

- Regulatory Insufficiency: The buildings and grounds shall be well-maintained, clean, safe and sanitary. (IAC r. 481-69.35(1))

E. Compliance with Plan of Correction

During the course of the investigation of June 19, 20, 26, 27 & July 2 & 3, 2013., , the Program received a regulatory insufficiency related to not updating Tenant #15's service plan to reflect identified needs and preferences for assistance.

Monitoring Observation: Tenant #15's service plan was not updated to include interventions related to a recertification to hospice on 7-30-13, increased agitation and anxiety, a yeast infection to abdominal folds and subsequent discharge from hospice on 8-29-13.

- 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))