IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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DEMAND LETTER
Complaint Intake #: 47002-C

February 24, 2014

Ms. Stacey Cremeens, Administrator
Hawthorne Inn at Windmill Pointe
1500 1st Avenue North
Coralville, IA 52241

RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL COMPLAINT/INCIDENT INVESTIGATION REPORT - HAWTHORNE INN AT WINDMILL POINTE
II. Reduction of Civil Penalty
III. Informal Conference
IV. Conclusion

Dear Ms. Cremeens:

I. Final Complaint/Incident Investigation Report – Hawthorne Inn at Windmill Pointe, Coralville, 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 **February 6 & 10, 2014.** The Report notes Regulatory Insufficiencies in the area(s) of: Staffing, Service Plans, Food Service and Record Checks.

Hawthorne Inn at Windmill Pointe ("Program") is being assessed a **$500 civil penalty** pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.17(1)(b).

Pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC rule 67.17(1)(b), 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.

Each Regulatory Insufficiency requires that the Program submit a written Plan of Correction (POC).

In preparing the POC, please use the tenant identifiers from the Report, i.e. Tenant #1, when reference is made to specific tenants. If your response includes a specific tenant's assessment or service plan, it is the Program's responsibility to conceal the tenant's name in order to maintain the tenant's anonymity. Your response shall include the following:

1. Elements detailing how the Program will correct each regulatory insufficiency.
2. What measures will be taken to ensure the problem does not recur.
3. How the Program plans to monitor performance to ensure compliance.
4. The date by which the regulatory insufficiency will be corrected.

Please note that all regulatory insufficiencies must be **corrected within 30 days of the date of the exit conference**; however, there may be situations where the timeframe may be shortened or lengthened, at the discretion of the department.

The POC must be submitted to DIA within ten (10) working days of receipt of this letter. It may be necessary for DIA to revisit the Program to confirm progress in fulfilling the POC's corrective measures.

The factors to be considered in determining the amount of a civil penalty are contained within rule 481 IAC 67.17(3) 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 Transportation and Record Checks.

The determination of a **$500 civil penalty** is based upon repeated Regulatory Insufficiencies in the area(s) of: Record Checks . As the enclosed Report details, the Program failed to perform record checks as required.

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 481−67.17(5). 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 **three hundred twenty five dollars ($325)** within 30 days after the notice or service of this demand letter.

III. Informal Conference

As provided by IAC rule 481-67.14, you are afforded one opportunity to refute cited regulatory insufficiencies through the informal conference process. A request for an informal conference must be made within 20 working days of the notice or service of this letter and the final report. Please refer to rule 67.14 for more information.

IV. Conclusion

The Program is being assessed a **$500 civil penalty** pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.17(1)(b).

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 as provided in IAC rule 481-67.14.

If you have any questions in regard to this letter and enclosed Report, please contact your Program Coordinator, Rose Boccella, at 515/281-7039 or **Rose.Boccella@dia.iowa.gov**.

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: **Complaint/Incident Intake #:** 47002-C

Stacey Cremeens, Administrator
Hawthorne Inn at Windmill Pointe
1500 1st Avenue North
Coralville, IA 52241

Date of Complaint/Incident Investigation:

February 6 & 10, 2014

Monitor(s):

Margaret Kaltefleiter, RN MS

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:	16
Number of tenants with cognitive disorder:	4
Total Population of Program at time of on-site	20
TOTAL census of Assisted Living Program	20

Program History – During the Recertification and Complaint Investigation of December 31 and January 2, 2013, the program received regulatory insufficiencies in the areas of: transportation and record checks.

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

A. Nurse Review

Complaint/Incident Allegation: It was alleged a tenant fell on or around 1-8-14 and no assessment was completed.

- Monitoring Observation: Incident reports were reviewed for November and December 2013 and January 2014. An incident report was provided that indicated Tenant #1 had a fall on 1-8-14.

  Tenant #1, a 92 year old, was admitted on 8-28-10 and diagnoses included: Hypertension (HTN), Atrial Fibrillation and Hypothyroidism. Tenant #1 was staged at a six on the Global Deterioration Scale (GDS) which indicated severe cognitive decline.

  According to an Accident/Incident Report Form dated 1-8-14 at 12:55 p.m., Tenant #1 was knocking on Tenant #1's apartment door. Tenant #1 was found in the door entrance and said he/she had left the bathroom and tripped. Range of motion (ROM) and vitals were completed. Tenant #1 denied hitting head. Tenant #1 stated the right knee hurt. Clothes on hangers were lying next to Tenant #1. Vitals were indicated as Blood Pressure 149/74, Pulse 66 and Respirations 18. Temperature was 98.8. A fax was sent to Tenant #1's physician; the family and the nurse were notified. The form was signed by Staff #2 and Staff #7 as persons who responded to the incident. The Nurse signed the form as the supervisor at the time of the incident.

  Staff #2 was interviewed and stated she heard Tenant #1 knocking on the apartment door. Before the knocking, Tenant #1 had been putting clothes away in the closet. Staff #2 thought Tenant #1 tripped on the clothes on the floor. She stated Tenant #1

had balance issues and used a walker. She stayed with Tenant #1 and called to Staff #7 who was at the nurse's station. Staff #2 took the vitals and notified the Nurse. ROM was checked and Tenant #1 was assisted up and sat on Tenant #1's bed. The Nurse went into Tenant #1's apartment later. Tenant #1 reported the right knee hurt.

Staff #7 stated she and Staff #2 entered Tenant #1's apartment together after they heard a thump. They did ROM and vitals. Staff #7 reported the situation to the Nurse who was helping a potential tenant with a leg wound that was draining. The nurse checked on Tenant #1 later.

The Nurse was interviewed and stated on 1-8-14, staff delivered clean clothes to Tenant #1 and asked if he/she would like them to hang up the clothes. Tenant #1 had stated "No," as Tenant #1 felt Tenant #1 needed to do something. One of the staff heard Tenant #1 knocking, the staff responded and found Tenant #1 on the floor. Tenant #1 stated he/she could move everything. Some clothes were on the floor and Tenant #1 stated Tenant #1 had tripped. The Nurse was interviewing a potential tenant who had a wound on the left lower extremity gush open. The Nurse put on gloves and obtained a 4 x 4 to wrap the leg. About seven minutes later she assessed Tenant #1, who had no fracture, no pain and was a little sore on Tenant #1's bottom and right knee. There were no abrasions or bruises. Tenant #1 had already gotten up by the time the Nurse arrived. When Staff #7 notified her of the fall, the Nurse told Staff #7 to look Tenant #1 over and if Tenant #1 was okay they could get Tenant #1 up after checking in with the Nurse to report what they saw.

Per review of incident reports and interviews with Staff #2, #7 and the Nurse, Tenant #1 had fallen, received assistance and was assessed appropriately.

- Regulatory Insufficiency: None noted.

B. Other

Complaint/Incident Allegation: It was alleged staff performed duties outside of their scope of practice and maintenance staff was asked to assist with a tenant who had fallen.

- Monitoring Observation: Staff #1, #2, #3, #4, #5, #7 and the Nurse were interviewed and stated they had not been asked to perform any duties outside of their scope of practice. Staff #1, #2, #3, #5, #7 and the Nurse stated they had never needed maintenance staff to assist with any tenants that had fallen. Staff #4 stated she had never had to call anyone to help her.

  Staff #8 worked in maintenance and stated he had never been asked to perform any duties outside of his scope of practice and had not assisted with any tenants who had fallen. The Maintenance Supervisor was interviewed and stated he had not performed any duties outside of his scope of practice and had not assisted with any tenants who had fallen. He stated the maintenance staff were not certified nurse's aides and had never assisted with tenants. It was his personal policy to not have maintenance staff assist. He felt it was important to keep nursing and maintenance separate to avoid anything happening to the tenants since maintenance staff was not trained to handle tenant cares.

A community meeting was held with four tenants. The tenants stated they had never seen maintenance staff assist with getting tenants up who had fallen.

According to interviews with staff, the Nurse and maintenance, staff had not performed tasks outside of their scope of practice. According to interviews with staff, the Nurse, maintenance and the tenants, maintenance staff had not assisted with getting tenants up who had fallen. There were no concerns with staff performing tasks outside of their scope of practice or with maintenance assisting tenants who had fallen.

- Regulatory Insufficiency: None noted.

C. Staffing

Complaint/Incident Allegation: It was alleged staffing could be short due to constant turnover.

- Monitoring Observation: According to the ALP Monitoring Entrance Form, staffing patterns per shift were reflected as two universal workers on the a.m. shift, two universal workers on the p.m. shift and one universal worker on the night shift.

  Staff # 1, #4, #5, #7 and the Nurse were interviewed and stated there was enough staff to meet the needs of the tenants. Staff #2 stated tenants received all cares but sometimes it felt short staffed. Staff #3 stated all tenant cares were completed but she felt three staff was needed on the first and second shifts.

  Staff #1, #2, #4, #5 and #7 stated there had not been a change in staffing patterns. The Nurse stated when she was hired there were three staff on the day and evening shifts and two staff on the night shift. It was determined there was no need for that many staff, thus staffing was reduced to two staff on the day and evening shift and one staff on the night shift. The Program was currently advertising for one full time position that would float between the day and evening shift. There were current plans to revamp the schedule changing the night shift from an eight hour to a ten hour shift to overlap with the day shift in the morning.

  A community meeting was held with four tenants. The tenants described the care received as pretty good and all staff was very helpful. Staff knew what services to provide to the tenants and the tenants received all their cares. The tenants stated nursing services were available when needed.

  According to the Staffing Policy, the Program shall provide sufficiently trained staff to be available at all times to fully meet tenant's identified needs to ensure the needs of the tenants in the Program are met at all time by adequately trained staff. The staff shall be awake and on duty 24 hours a day in the proximate area, and check on tenants as indicated in the tenant's service plan.

  According to policy review, interviews with staff, the Nurse and tenants, there was enough staff to meet tenant needs and all services were provided as requested.

- Regulatory Insufficiency: None noted.

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

- Monitoring Observation: Six staff files were reviewed. Staff #1, #2, #3, #4, #5 and #6 provided personal and health related cares to the tenants. According to a staff list, Staffs #1, #2, #3, #4, #5 and #6 were listed as personal assistants (universal workers). Staff #1, #2, #5 and #7 stated they were certified nurse's aides. The Nurse was hired on 8-20-13. The Nurse had not documented a review to ensure that staff was sufficiently trained and competent in all tasks assigned or delegated within 60 days of employment. Delegation for medication administration was provided for Staff #1, #2, #3, #4 and #5. Delegations for certified and noncertified staff regarding service plan tasks such as wound care, pain management, rehabilitation needs and hospice care was not completed at the time of the onsite visit.

  Review of staff files, staff interviews and an interview with the Nurse indicated a documented review of staff training and competency within 60 days of the new nurse's hire date and delegations for certified and noncertified staff regarding service plan tasks was not completed.

- Regulatory Insufficiency: The program's registered nurse shall ensure certified and noncertified staff is competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following: The program's newly hired registered nurse shall within 60 days of beginning employment as the program's registered nurse document a review to ensure that staff is sufficiently trained and competent in all tasks that are assigned or delegated. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status. (IAC r. 481-67.9(4)(a)(d))

D. Service Plans

Complaint/Incident Allegation: It was alleged proper assessments, service plan documentation and timely reviews were not being completed.

- Monitoring Observation: Four tenant files (Tenant #1, #2, #3 and #4) were reviewed.

  Tenant #1 had functional, cognitive and health evaluations and a service plan completed on 1-20-14 for a 90 day nurse review.

  Tenant #2, an 87 year old, was admitted on 1-31-14 and diagnoses included: End Stage Renal Failure, HTN, Edema, Chronic Gastritis and Left Leg Wound. A cognitive and health evaluation was completed on 1-6-14. A functional evaluation was completed on 1-31-14. A service plan was developed on 1-31-14 prior to Tenant #2's admission.

Tenant #3, a 90 year old, was admitted on 7-26-11 and diagnoses included: Chronic Obstructive Pulmonary Disease, HTN and Osteoporosis. Tenant #3 was staged at a six on the GDS which indicated severe cognitive decline. A nurse review was completed on 11-26-13 due to Tenant #3's admission to hospice services. The service plan was updated on 11-29-13 to reflect the addition of hospice services. A 90 day nurse review on 1-2-14 included cognitive and health evaluations.

Tenant #4, a 66 year old, was admitted on 11-1-13 and diagnoses included: Obsessive Compulsive Disorder, Status Post Replacement Total Hip, Weakness and Debility. Functional, cognitive, health evaluations and a service plan were completed on 10-31-13 prior to admission. Functional, cognitive, health evaluations and a service plan were completed within 30 days of admission on 11-28-13.

Review of tenant files indicated nurse reviews, evaluations and service plans were completed as needed to reflect the tenant's identified needs.

- Regulatory Insufficiency: None noted.

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

- Monitoring Observation: Four tenant files (Tenant's #1, #2, #3 and #4) were reviewed. Tenant #1's service plan dated 1-20-14 was not signed. Tenant #2's service plan dated 1-31-14 was signed by the Nurse. Tenant #3's service plan dated 11-29-13 was signed by the Nurse. Tenant #1's service plan was not signed by the nurse, Tenant #1 or Tenant #1's legal representative. Tenants #2 and #3 or their legal representatives did not sign the service plans.

  Review of tenant files indicated the person who developed the plan had not signed Tenant #1's plan and Tenants #1, #2, #3 or the tenant's legal representative had not signed the plan.

- Regulatory Insufficiency: Prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant's legal request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan. (IAC r. 481-69.26(2))

E. Food Service

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

- Monitoring Observation: Six staff files were reviewed. Staff #1, #2, #3, #4, #5 and #6 worked in the assisted living unit and served food. Staff #1 completed an annual in-service training on sanitation and safe food handling on 1-13-13. Staff #3 completed an annual in-service training on sanitation and safe food handling on 11-10-12. Staff #2, #4, #5 and #6 did not have an orientation on sanitation and safe food handling prior to handling food and did not have an annual in-service training on food

protection. Staff #1 and #3 did not have an annual in-service training on food protection.

Review of staff files did not indicate staff responsible for food service completed an orientation on sanitation and safe food handling prior to handling food or an annual in-service training on food protection.

- Regulatory Insufficiency: Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (IAC r. 481-69.28(5))

F. Record Checks

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

- Monitoring Observation: Six staff files were reviewed for background checks.

  Staff #5 was hired on 10-21-13. Criminal history, child and dependent adult abuse checks were completed on 10-1-13. The dependent adult abuse check indicated the database was unavailable and no result was provided.

  After being informed by the monitor on 2-6-14, the Program completed an adult abuse check and no criminal history was found.

  Staff #5 was hired and began working without completion of a dependent adult abuse check. The Program did not complete the dependent adult abuse check prior to employment.

- Regulatory Insufficiency: Prior to employment of a person in a program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state. A program shall ask each person seeking employment by the program, "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions in this state or any other state?" The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted. (IAC r. 481-67.19(3)(a))