

TERRY E. BRANSTAD
GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

KIM REYNOLDS
LT. GOVERNOR**DEMAND LETTER**

January 14, 2016

Ms. Lauri Fulkerth, Director
Arlington Place of Pocahontas
101 NE 5th Street
Pocahontas, IA 50574

- RE: I. NOTICE OF IMPOSITION OF CIVIL PENALTY – FINAL
RECERTIFICATION MONITORING EVALUATION REPORT - ARLINGTON
PLACE OF POCAHONTAS**
- II. Reduction of Civil Penalty**
- III. Informal Conference**
- IV. Conclusion**

Dear Ms. Fulkerth:

**I. Final Recertification Monitoring Evaluation Report – Arlington Place of Pocahontas,
Pocahontas, IA**

Enclosed is the **Final Recertification Monitoring Evaluation 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 **January 11, 2016**. The Report notes Regulatory Insufficiencies in the area(s) of: Record Checks and Food Service.

Arlington Place of Pocahontas (“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/mailed to DIA to my attention 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 Food Service.

The determination of a **\$500 civil penalty** is based upon repeated in the area(s) of: Food Service. As the enclosed Report details, the Program received a regulatory insufficiency in the area of Food Service during an investigation conducted on September 22, 2015.

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.

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, Bureau Chief
Adult Services Bureau

Enclosure

cc: Jean Herrity, Legal Assistant
Disability Rights Iowa

DEPARTMENT OF INSPECTIONS AND APPEALS

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: S0226	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED 01/11/2016
--	--	---	---

NAME OF PROVIDER OR SUPPLIER ARLINGTON PLACE OF POCAHONTAS	STREET ADDRESS, CITY, STATE, ZIP CODE 101 NE 5TH STREET POCAHONTAS, IA 50574
--	--

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
A 000	<p>481-67 Initial Comments</p> <p>Assisted Living Programs are defined by the type of population served. The census numbers were provided by the Program at the time of the on-site.</p> <p>General Population Program</p> <p>Number of tenants without cognitive disorder: 16 Number of tenants with cognitive disorder: 6 Total Population of Program at time of on-site: 22</p> <p>Dementia-Specific Program by Dedication</p> <p>Number of tenants without cognitive disorder: 1 Number of tenants with cognitive disorder: 7 Total Population of Program at time of on-site: 8</p> <p>TOTAL census of Assisted Living Program: 30</p> <p>The following regulatory insufficiencies were cited during the recertification conducted to determine compliance with certification for an Assisted Living Program:</p>	A 000		
A 124	<p>481-67.19(4) Record Checks</p> <p>481-67.19(135C,231B,231C,231D) Criminal, dependent adult abuse, and child abuse record checks.</p> <p>67.19(4) Validity of background check results. The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the program.</p>	A 124		

DIVISION OF HEALTH FACILITIES - STATE OF IOWA LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
--	-------	-----------

DEPARTMENT OF INSPECTIONS AND APPEALS

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: S0226	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED 01/11/2016
--	--	---	---

NAME OF PROVIDER OR SUPPLIER ARLINGTON PLACE OF POCAHONTAS	STREET ADDRESS, CITY, STATE, ZIP CODE 101 NE 5TH STREET POCAHONTAS, IA 50574
--	--

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
A 124	<p>Continued From page 1</p> <p>This REQUIREMENT is not met as evidenced by: Based on a review of background checks, a staff member was hired more than 30 days after the completion of background checks.</p> <p>1. Background checks were completed for Staff C, Universal Worker, on 7-16-15. There were no issues with the child abuse registry check, but the dependent adult abuse registry check and the criminal record check both produced "hits" which indicated further research was required.</p> <p>On 7-17-15, the criminal record check returned that no criminal records were found. On 7-27-15 the dependent adult abuse registry check returned that no records were found.</p> <p>According to the staff list provided to the monitor upon entrance to the Program, Staff C was hired on 8-28-15.</p> <p>The Administrator was interviewed on 1-11-16 at 11:30 a.m. and confirmed Staff C was hired on 8-28-15.</p>	A 124		
A 108	<p>481-69.28(6)a Food Service</p> <p>481-69.28(231C) Food service. 69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:</p> <p>a. All main meals and planned menu items</p>	A 108		

DEPARTMENT OF INSPECTIONS AND APPEALS

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: S0226	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED 01/11/2016
--	--	---	---

NAME OF PROVIDER OR SUPPLIER ARLINGTON PLACE OF POCAHONTAS	STREET ADDRESS, CITY, STATE, ZIP CODE 101 NE 5TH STREET POCAHONTAS, IA 50574
--	--

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
--------------------	--	---------------	---	--------------------

A 108	<p>Continued From page 2</p> <p>must be prepared offsite and transferred to the program kitchen for service to tenants.</p> <p>This REQUIREMENT is not met as evidenced by: Based on observation, the service of food did not meet the standards of state and local health laws pertaining to the service of food. Bare hands were used to touch food and serve it to tenants.</p> <p>On 1-11-16, the mid-day meal was observed to be served in the dining room of the dementia unit. The food had been prepared in the main kitchen and transported to the dementia unit. Several brownies were on one plate covered with plastic wrap.</p> <p>1. At 11:43 a.m., Staff A Life Enrichment Coordinator was observed serving a brownie to Tenant #4. Staff A used bare hands to pick up the brownie and remove the brownie from the plate and serve the brownie.</p> <p>2. On 1-11-16 at 11:46 a.m. Staff B Universal Worker was observed serving a brownie to Tenant #5. Staff B used bare hands to pick up the brownie and remove the brownie from the plate and serve the brownie.</p>	A 108		
-------	---	-------	--	--

Arlington Place - Pocahontas
101 NE 5th St.
Pocahontas, Iowa 50574
Ph: 712-335-3020
Fx: 712-335-4456

Date: 01-20-16

Complaint/Investigation Intake #'s:

Plan of Correction (POC) Submitted For:

- Investigation Date: 01-11-2016
- Monitors: Lori Miner

POC:

A. Deficiency:

- a. **Regulatory Insufficiency:** 481-67.19(4) Record Checks. Validity of background check results. The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the program.

Program POC:

1. **Elements detailing how the program will correct the insufficiency as it relates to the tenant:**
 - A. Program Manager re-submitted a background check on said Universal Worker on 1-19-16. Going forward Program Manager will ensure a hire is completed within 30 days from the date a no records found verification is received on a background check.
 - B. Program Manager will not hire potential employees outside of a 30 day validation of a background check. Program Manager will resubmit a background check on any potential new hire if time exceeds the 30 day validity of results of a background check.
2. **Actions program taking to protect tenants in similar situations:**
 - A. Program Manager will ensure no potential new hires are hired after 30 days of a verified background check.
 - B. The Program Manager will assure background checks on all potential new hires meet the guidelines of code 481-67.19 (4). Potential new hires who fall outside of the 30 day deadline will have a new background check submitted by the program Manager before a hire date.

3. Measures taken to ensure problem does not recur:

- A. Program Manager will assure all new hires have a completed background check and a hire date within the 30 day time frame after receiving a no record found report on all areas of the background check.

4. Date by which the regulatory insufficiency will be corrected:

- A. 01-19-16

B. Discrepancy:

a. Regulatory Insufficiency: 481.-69.28(231.C) Food Service

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F

Program POC:

1. Elements detailing how the program will correct the insufficiency as it relates to the tenant:

- A. Program Manager met with staff persons A and B to discuss their understanding of food safety on 1-12-16. Retraining of these two employees on food safety was also conducted on 1-20-16.
- B. Program Culinary Coordinator, and Program Manager, will monitor staff to ensure staff serving meals and snacks meet the standards of state and local health laws and ordinances.
- C. Culinary Coordinator, and Program Manager, will ensure all staff use gloves and or utensils to serve meals and snacks. Culinary Coordinator, and Program Manager will ensure staff understand health laws and ordinances pertaining to the preparation and service of food.

2. Actions program is taking to protect tenants in similar situations:

- A. Program will ensure staff understand health care laws and ordinances pertaining to preparation and service of food. Culinary Coordinator, Program Manager, will monitor staff serving meals and snacks weekly to ensure proper food handling standards are being met. All program staff are required to attend a Food Safety in-service held annually at Arlington Place.
- B. Culinary Coordinator will ensure staff are utilizing proper serving utensils and or gloves when serving meals or snacks to residents, as well ensure proper sanitary methods are being used in serving and or preparing meals and snacks.

3. Measures taken to ensure problem does not recur:

- A. Culinary Coordinator and Program Manager will monitor serving of meals and snacks to tenants on a weekly basis. All program staff attend at least one food safety in-service per year.
- B. Program Culinary Coordinator will continue to provide training to all staff serving meals and snacks to tenants on a yearly basis with monitoring of food preparation and serving of food on a weekly basis.

4. Date by which the regulatory insufficiency will be corrected:

- A. **01-20-2016**

Preparation and/or execution of this plan of correction does not constitute admission or agreement by the provider of the truth of the facts alleged or conclusions set forth in the statement of regulatory insufficiencies. The plan of correction is prepared and/or executed solely because it is required by the provisions of state law.