IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

DEMAND LETTER
CERTIFIED

Complaint: #24137-C

September 8, 2009

Angela O'Brien, Administrator
Courtyard Estates at Cedar Pointe
6132 NE 12th Avenue
Pleasant Hill, IA 50327-8911

RE: I. Final Complaint Investigation Report, Courtyard Estates at Cedar Pointe, Pleasant Hill, IA
II. Appeals/Hearings
III. Civil Penalty
IV. Conclusion

Dear Ms. O'Brien:

I. Final Complaint Investigation Report, Courtyard Estates at Cedar Pointe, Pleasant Hill, IA

Enclosed is the **Final Complaint Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C, 321 Iowa Administrative Code chapter 25 (pertaining to assisted living programs), and 321 Iowa Administrative Code chapter 26 (pertaining to monitoring, civil penalties, and complaints). The report notes Regulatory Insufficiency in the area of Staffing. Courtyard Estates at Cedar Pointe ("Program") is being assessed a $1,000.00 civil penalty.

DIA has reviewed the Plan of Correction (POC) and the Request for Reconsideration in response to the complaint investigation Report dated July 28 & 29, 2009. Based on the information provided, DIA denies the Request for Reconsideration as it relates to Staffing, as the Program continued employment of a staff member whose behavior was inappropriate and who tenants were afraid of. The Plan of Correction that was submitted is accepted.

II. Appeals/Hearings

The Program may appeal the DIA decision in accordance with 321 Iowa Administrative Code rule 26.4, within 30 days of notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to 481 Iowa Administrative Code chapter 10. If the Program appeals, the civil penalty will be suspended, pending appeal process.

III. Civil Penalty

If, within thirty (30) days of the receipt of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) pay the penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to Iowa Code section 231C.14. If you do not wish to request a formal hearing or wish to withdraw your request for formal hearing, please send written notice to the Certification Coordinator and remit the penalty assessed by check or money order in the amount of six hundred and fifty dollars ($650.00) within 30 business days after the receipt of this demand letter.

IV. Conclusion

The Program is being assessed a $1,000.00 civil penalty. DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal or request a hearing on the final findings, the Program may do so within 30 days of this letter.

If you have any questions regarding this letter and report, please contact your Certification Coordinator, Connie Schaffer, at 515-281-5003.

Sincerely,

Rose Borcella for

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Final Complaint Investigation Report

Assisted Living Program: **Complaint Intake: #24137-C**

Angela O'Brien, Manager
Courtyard Estates at Cedar Pointe
6132 NE 12th Avenue
Pleasant Hill, IA 50327-8911

Date of Investigation:

July 28 & 29, 2009

Monitor(s):

Hal L. Chase, RN BSN MPH

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or 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 rule violations [321 IAC 26.2(5)(a)]. The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 321 IAC - chapter 25 that either serves five or more tenants with dementia or cognitive disorder staged between 4 and 7 on the Global Deterioration Scale or holds itself out as providing special care for persons with cognitive disorder or dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site visit was conducted at Courtyard Estates Assisted Living on July 28 and 29, 2009. In preparing this report, the following information was considered:

Current Program Census:

General Population Program (GPP)* – A program that is not a Dementia Specific program, but may have tenants with cognitive disorder.

Current number of tenants without cognitive disorder:	10
Current number of tenants with cognitive disorder:	4
Total Population of GPP:	14

Dementia Specific Program (DSP)* – A program that is dementia specific and provides specialized care in a dedicated setting.

Total Population of DSP:	10
Total Census of ALP:	24

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Accreditation Status – Not applicable.

Program History – There have been Regulatory Insufficiencies in the areas of: Evaluation of Tenant, Tenant Documents, Service Plan, Medications, Nurse Review, Staffing, Structural Requirements and Other during this certification period.

Investigation of January 31, 2008 for Complaint #15433-C with Regulatory Insufficiencies in the areas of: Evaluation of Tenant, Service Plan, Medications, Staffing and Structural Requirements, which resulted in a $1,000.00 fine.

Investigation of January 14 & 15, 2009 for Complaint #21513-C and Incident #21515-I with Regulatory Insufficiencies in the areas of: Evaluation of Tenant, Tenant Documents, Service Plan, Nurse Review, Staffing, Structural Requirements and Other, which resulted in a $10,000.00 fine.

Investigation of April 21, 2009 for the first Revisit on Complaint #21513-C and Incident #21515-I. There were no Regulatory Insufficiencies.

Complaint Investigation – The complaint investigator(s) made the observations detailed in the following areas.

A. Medications – Program has a comprehensive written medication policy that allows tenant self-administration, but accommodates the need for tenant medication assistance via nurse delegation. The medication assistance is appropriately supervised and administered. Medications are appropriately stored. [231C.16A]

Complaint Allegation: It is alleged Tenant #1 did not receive Milk of Magnesia for three days. It is alleged "that one week all residents (at least 5) who were using daily planners were totally out" from 2:00 p.m. Monday until Tuesday morning.

- Monitoring Observation: Tenant #1, a 97 year old, was admitted on 10-19-06 and has diagnoses of: Osteoarthritis, Kyphosis, Urinary Incontinence and Dementia. Medication Administration Records (MARs) for June 2009 indicated a physician order for Milk of Magnesia (MOM), 30 cc daily in the morning and as needed, with the "as needed" MOM to be self administered by the tenant. MARs for 6-27-09 through 6-29-09 indicated MOM was recorded as not available. Staff #1 and #2 stated the tenant was out of MOM for three days, knew the tenant had two additional bottles of MOM for "as needed," but "didn't think they could use them." Staff #3 stated tenants received their medications but also knew the tenant had two additional bottles of MOM available. The program nurse stated the tenant's MOM was ordered on 6-26-09 but was not delivered. Staff did not inform her of the tenant being out of MOM until her return on 6-29-09. The program nurse stated she took corrective action by educating staff to call her when medication is not available.

  The program nurse stated there were only two tenants who used pill planners. She was notified the evening of 6-8-09 that pill planners for Tenant #2 and #3 had not been filled for the evening and night time medications. She instructed staff to compare the MARs with the each of the tenant's medication bottle and to read the label instructions to the nurse. She then instructed staff to give medications to each of the two tenants. This process was repeated for the night time medications. MARs for June 8 and 9, 2009 indicated medications were documented as given. The nurse stated she came in the following morning, 6-9-09 and filled each of the two pill planners. Staff #1, #2 and #3 stated they received training for administering medications and demonstrated their competency to administer medications from medication bottles. Eight staff files, including Staff #1, #2 and #3 indicated staff were trained by and demonstrated their competency to administer medications to tenants to the program nurse.

  MARs for all tenants receiving medication administration for July 2009 indicated medications were appropriately documented as administered per physician order with medication errors.

- Regulatory Insufficiency: None noted.

B. Staffing - The provisions of this section address the program's staffing and training practices and associated documentation in responding to the identified needs of the tenant. [321 IAC 25.33]

Complaint Allegation: It is alleged the program nurse told staff "if the resident isn't bleeding and can get up and walk they are not to call her – only call her if they are bleeding."

Monitoring Observation: Staff #1, #2, and #3 stated the nurse is available when called by staff; staff are to take vital signs before calling. The program nurse was available at all times to meet the identified needs of the tenant.

Regulatory Insufficiency: None noted.

Complaint Allegation: It is alleged tenants are afraid of Staff #4 and did not want her coming into their apartment. If another staff person comes when Staff #4 is around tenants will ask other staff to stay with them until Staff #4 leaves.

- Monitoring Observation: Staff #4's initial date of employment was 2-27-09. Criminal background was completed on 2-23-09 and indicated a hit. The program received clearance from the Department of Human Services on 2-25-09. Staff #4's file indicated completion of medication administration training, personal and health related training and demonstration of competency to the program nurse.

  Staff #1 stated Staff #4 had made medication errors and "grabbed a tenant by the back of the neck when trying to get the tenant up." She wouldn't assist tenants with ambulation and would leave tenants unattended in the shower. She was rude to tenants and stated once to a tenant "I'm sick of caring for you." She demonstrated this behavior from the "very beginning and the program didn't do anything about it until tenant family members complained." Staff #2 stated Staff #4 had "strikes" against her from the very beginning as "some of the staff didn't like her," and told tenants she "had to go." Staff #2 stated tenants told her Staff #4 was rough and rude. Staff #3 stated Staff #4 had been inappropriate toward tenants but was not physically or verbally abusive toward tenants.

  The Administrator stated Staff #4 had a significant hearing loss, which would cause her to be speak loudly. Staff #4 had personal problems at home, which would affect her attitude at work. She was counseled for this and was told she had to leave her personal issues outside the program.

  Staff #4's file indicated there had been three written warnings and counseling related to personal and health related cares given to tenants. On 4-3-09 Staff #4 was counseled related to unsatisfactory use of a gait belt and hanging on to tenant's slacks. On 7-3-09 Staff #4 was counseled related to not following program procedures when administering medications to tenants. Staff #4 attempted to give one tenant medications earlier than prescribed. On 7-16-09 several tenants complained Staff #4 demonstrated rude behavior and requested Staff #4 not care for them and did not want her in their apartments. On 7-21-09 Staff #4 was terminated from employment.

- Regulatory Insufficiency: The program did not consistently have sufficient trained staff available at all times to fully meet tenants' identified needs. (25.33(1)

Dated this 8th day of September, 2009