CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

DEAN A. LERNER, DIRECTOR

February 26, 2009

Complaint Intake: #20501-C
#21024-A
#17841R
#18143R

Anthony Bowman, Interim Resident Director
Dubuque Retirement Community
2700 Matthew John Drive
Dubuque, IA 52002-2929

RE: I. Final Complaint Investigation #20501-C & #21024-A, Complaint Investigation Revisit - #17841R & #18143R & Recertification Revisit Report – Dubuque, IA
II. Civil Penalty
III. Hearings and Appeals
IV. Conclusion

Dear Mr. Bowman:

I. Final Complaint Investigation #20501-C & #21024-A, Complaint Investigation Revisit - #17841R & #18143R & Recertification Revisit Report – Dubuque Retirement Community, Dubuque, IA

Enclosed is the **Final Complaint Investigation #20501-C & #21024-A, Complaint Investigation Revisit - #17841R & #18143R & Recertification Revisit Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code section 231C.7 (2007) and Iowa Administrative Code, chapters 321—25, pertaining to assisted living programs and 321—26, pertaining to monitoring, civil penalties and complaints regarding assisted living programs. The Final Report notes the **Regulatory Insufficiencies,** as defined in the areas of: Medications, Staffing and Other.

DIA is denying your Request for Reconsideration in regard to Medications as Assisted Living Programs are not regulated under the Federal Regulation Standards and CMS and therefore, we do not rely on percentages of medication error rates. DIA is also denying your Request for Reconsideration under Other, as the RN may have reviewed the MAR's; however, the RN did not resolve the situation by preventing the errors from occurring again.

DIA is denying your Request for Reconsideration in regard to Staffing as staff did not follow directives for medication reminders and, therefore, a tenant, who had fallen was not found within an acceptable time frame. DIA is accepting the Plan of Correction (POC).

II. Civil Penalty

If no appeal is requested within 30 days of receipt of this Final Complaint Investigation, Complaint Investigation Revisit & Recertification Revisit Report the civil penalty obligation, in the amount of four thousand ($4,000.00) dollars, is required.

IV. Hearings/Appeals

The Program may appeal the DIA decision in accordance to 321 IAC 26.4, within 30 days of notice, by submitting a request for appeal to the DIA. Hearings will be held pursuant to 481 IAC Chapter 10. If the program appeals, the civil penalty will be suspended, pending appeal. If the program does not appeal, the fine is due within 30 days of notice.

V. Conclusion

Dubuque Retirement Community is being assessed a $4,000.00 civil money penalty.

The Request for Reconsideration is denied and the POC is accepted. 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 in regard to these matters, please contact me at (515) 281-5077.

Sincerely,

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

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

Assisted Living Program:

Complaint Intake #: 20501-C
21024-A
17841R
18143R

Shannon Lundgren, Resident Director
Dubuque Retirement Community
2700 Matthew John Drive
Dubuque, IA 52002-2929

Date of Investigation:

December 2, 2008

Monitor(s):

Stephanie Cummins, MA
Lincoln Newsom, RN

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, two complaint investigation revisits and a recertification revisit on-site were conducted at Dubuque Retirement Community on December 2, 2008. 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:	112
Current number of tenants with cognitive disorder:	3
Total Population:	115

Dementia Specific Program (DSP)* – Not applicable.

***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 were substantiated Regulatory Insufficiencies this certification period in the areas of: Evaluation of Tenants, Criteria for Exclusion of Tenants, Service Plans, Medications, Food Service, Staffing, Structural Requirements and Other.

The February 1, 2008 Complaint Investigation resulted in a fine of $500.00 with a Regulatory Insufficiency in the area of Structural Requirements.

The July 15, 2008 Complaint and Recertifcation Revisit resulted in a fine of $2,000.00, with Regulatory Insufficiencies noted in the following areas: Evaluation of Tenants, Service Plans, Medications, Food Service, Staffing and Other (POC).

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

A. Evaluation of Tenant - The program evaluates each tenant's functional and cognitive abilities and health status and the determination of needed services as required. [321 IAC 25.23(1) and/or (2)]

The program had received a regulatory insufficiency in regard to Tenant #2 and #7 at the time of the July 2008 visit, related to not consistently evaluating the tenants' functional, cognitive and health status within 30 days of taking occupancy and as needed.

Monitoring Observation: Tenant #2 was discharged on 8-24-08. Tenant #7 had evaluations completed appropriately.

- Regulatory Insufficiency: None noted.

B. Service Plan – Program has an individualized service plan developed and updated for each tenant as required. [321 IAC 25.28]

The program had received a regulatory insufficiency in regards to Tenant #2, #4, #5, #6 and #7 at the time of the July 2008 visit, related to not consistently updating service plans for tenants as needed, when a tenant needs personal care or health-related care, by a multidisciplinary team that consists of no fewer than three individuals, including a health professional and other staff appropriate to meet the needs of the tenant, in consultation with the tenant, and, if applicable, with the tenant's legal representative. The program did not consistently develop service plans based on evaluations conducted in accordance with 25.23(1) and 25.23(2) and designed to meet the specific service needs of the individual tenant.

Monitoring Observation: Tenant #2 was discharged on 8-24-08. Tenant #5 was discharged on 8-10-08. Tenant #6 was discharged on 8-11-08.

Tenant #4 had service plans signed appropriately.

Tenant #7 had service plans signed appropriately.

- Regulatory Insufficiency: None noted.

C. 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 #17841R: The program received a regulatory insufficiency related to not consistently having medications administered by an Iowa-licensed registered nurse or advanced registered nurse practitioner registered in Iowa or the authorized agent in accordance with 655—subrule 6.2(5) and 655—subrule 6.3(1) and Iowa Code chapter 155A and for not executing the medical regimen as prescribed by the physician. The registered nurse did not exercise professional judgment in accordance with minimum standards of nursing practice as defined in these rules: 25.29(2)a, 655-6.2(5)e(152).

Complaint Allegation #20501: It was alleged staff set up medication "minders" and pills are not kept in individual bottles. It was alleged staff sign off on a tenant's Medication Administration Record (MAR); however, they do not do anything with the tenant's medications.

Monitoring Observation: A review of Tenant #14's service plan indicated the tenant required medication reminders. The tenant's MAR indicated staff were to observe the tenant for medication compliance. Staff #1 stated the tenant did very well with taking his/her own medications and staff go in throughout the day and check the medication planner to ensure the medications were taken. Staff #1 stated staff signed the MAR. A medication pass was observed and appropriate medication protocol was followed.

- Regulatory Insufficiency: None noted.

Monitoring Observation: Below is a table indicating medication errors. It represents medications either not administered or not signed off as administered.

Tenant #4	Cipro, 500 mg. twice daily.	11-28-08, 8:00 p.m. not given or not signed as given.
Tenant #12	Warfarin, 5 mg. daily.	10-13-08, 4:00 p.m., not given or not signed as given.
Tenant #12	Ferrous Sulfate, 325 mg. twice daily.	10-16-08, 8:00 a.m., not given or not signed as given.
Tenant #12	Megestrol, 20 mg, twice daily.	10-16-08, 8:00 a.m., not given or not signed as given.
Tenant #12	Actos, 30 mg. once daily	10-16-08, 8:00 a.m. not given or not signed as given
Tenant #12	Amlodipine Besylate, 5 mg. once daily.	10-16-08, 8:00 a.m., not given or not signed as given.
Tenant #12	Carvedilol, 12.5 mg. twice daily.	10-16-08, 8:00 a.m., not given or not signed as given.
Tenant #15	Humalog, 100 units/ml VIAL, inject 6U-Sub-Q before supper.	11-29-08, 4:00 p.m., not given or not signed as given.
Tenant #15	Warfarin Sodium, 2 mg. once daily.	9-29-08, 4:00 p.m., not given or not signed as given.
Tenant #15	Docusate Sodium, 100 mg. twice daily.	9-29-08, 4:00 p.m., not given or not signed as given.
Tenant #15	Accucheck	9-29-08, 4:00 p.m., result was not written.

The Registered Nurse (RN) developed a MAR review work sheet and implemented its use on 7/25/08. The sheet indicated weekly medication reviews, with the RN signing she had completed the MAR review and then either indicating the records were correct by writing "complete, no concerns, or ok"

Despite the implementation of the MAR review sheet, four files reviewed, for the months of August through October 2008, showed at least 17 medication errors even after the RN signed "ok" to the MAR review sheet.

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

Tenant #13, a 92 year old was admitted on 4-2-08 and diagnoses include: Left Hip Fracture, Renal Insufficiency, Atrial Fibrillation, Cataracts, Diabetes Mellitus Type II, Hypothyroidism, Gastroesophogeal Reflux Disease (GERD), and Glaucoma. According to a Universal Incident/Occurrence Report dated 11-3-08, Tenant #13 was found lying on the floor. The form indicated the tenant had an unwitnessed fall and was found in the tenant's apartment at the end of the bed. The tenant was taken to the hospital and had a fractured left hip. According to an interview with the tenant's family, the tenant fell around 3:00 a.m. and was not found until 5:45 p.m. According to Tenant #13's service plan of 4-14-08, the tenant required medication reminders at 8:00 a.m. and 4:00 p.m. and a dressing reminder at 8:00 a.m. The nurse stated prior to the tenant's hospitalization for a hip fracture, family was filling the med minders for the tenant on a weekly basis and staff were providing verbal reminders in the morning and evening to take his/her medications. These instructions were written on the caregivers assignment sheet for both morning and afternoon shifts as "remind to take medications" as both tenant and family requested. The verbal reminders in the morning and evening were not documented on the medication sheet or MAR.

- Regulatory Insufficiency: The program did not provide for medication administration provided by an Iowa-licensed registered nurse or advanced registered nurse practitioner registered in Iowa or the authorized agent in accordance with 655—subrule 6.2(5) and 655—subrule 6.3(1) and Iowa Code chapter 155A and in executing the medical regimen as prescribed by the physician, the registered nurse did not exercise professional judgment in accordance with minimum standards of nursing practice as defined in these rules: 25.29(2)a, 655-6.2(5)e(152).

D. Food Service – Program shall provide or coordinate with other community providers to provide hot or other appropriate meal(s) at least once a day or make arrangements for the availability of meals. Menus shall be appropriately planned. If applicable, therapeutic diets shall meet all requirements. Food preparation personnel shall meet all requirements. [321 IAC 25.32]

The program received a regulatory insufficiency in regard to Staff #1, #3, #4, #8, #9, #10 and #11 at the time of the July 2008 visit, related to not consistently providing staff who are responsible for preparing or serving food, or both, an annual in-service training on food protection.

Monitoring Observation: Staff #10 is no longer employed by the program. According to an in-service training record dated 8-27-08, Staff #1, #3, #4, #8 and #11 had documented training on food protection.

- Regulatory Insufficiency: None noted.

E. 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 #18143: The program received a regulatory insufficiency related to not consistently providing sufficient trained staff at all times to fully meet tenants identified needs.

Monitoring Observation: Interviews with Staff #1, #4 and #12 indicate staff felt comfortable with going to administrative staff with changes in a tenant's status.

The nurse indicated that staff do not currently assist tenants with catheter care. A review of Staff #1, #3, #4, #8, #9 and #12's files show documented training on Activities of Daily Living (ADLs) by the nurse.

Complaint Allegation #20501: It was alleged the nurse told staff to lie to the State when they were there and if they did not, they had their hours cut.

Monitoring Observation: Interviews with Staff #1, #4 and #12 indicated they were not told to lie to the State. An interview with the nurse indicated she did not tell staff to lie to the State. The nurse stated staff hours were not cut related to talking to the State.

Complaint Allegation #20501: It was alleged the nurse told staff not to document falls for a tenant, staff could not get a tenant up at night because he/she was a two person transfer and the tenant's health declined and the nurse did not assess the tenant.

Monitoring Observation: Tenant #6, a 77 year old was admitted on 4-28-08 and diagnoses include: Cerebrovascular Accident (CVA) and Expressive Aphasia. The nurse stated she did not instruct staff not to document falls. She also stated staff could get Tenant #6 up, as needed, for toileting. The nurse stated if the tenant required two staff to transfer, staff were allowed to use two people. A review of the tenant's file indicated the Resident Service Notes dated 7-17-08, stated the tenant was leaning more to the left. On 8-1-08, notes indicated the tenant was not feeling well and vitals were taken. The tenant's vitals included a blood pressure of 141/105, a temperature of 100.8 and a pulse of 62. On 8-2-08 at 8:00 a.m., the tenant was sent to the hospital with complaints of left sided weakness and general malaise. The tenant was admitted with diagnoses of a Urinary Tract Infection (UTI) and Anemia. The tenant was discharged on 8-11-08.

Complaint Allegation #20501: It was alleged staff did not receive additional training when it was requested.

Monitoring Observation: Interviews with Staff #1, #4 and #12 indicated they had not asked for additional training.

- Regulatory Insufficiency: None noted.

Complaint Allegation #20501: It was alleged staff administer Heparin and Insulin without appropriate training.

Monitoring Observation: The nurse stated she did not document Heparin training for staff. She states she drew up the Heparin and observed staff administering it; however, this training was not documented. Tenant #12 was not receiving Heparin at the time of the onsite. A review of staff files indicated staff had appropriate training documented in regard to insulin administration for Staff #1, #3, #8 and #11.

Complaint Allegation #20501: It was alleged a tenant fell and was on the floor for 12 hours and staff did not check on the tenant.

Monitoring Observation: According to a Universal Incident/Occurrence Report dated 11-3-08, Tenant #13 was found lying on the floor after the tenant's family member called. The form indicated the tenant had an unwitnessed fall and was found in the tenant's apartment at the end of the bed. The tenant was taken to the hospital and had a fractured left hip. According to an interview with the tenant's family, the tenant fell around 3:00 a.m. and was not found until 5:45 p.m. The tenant missed three meals the day of the incident. The tenant's family reported the tenant was still in pajamas when he/she was at the hospital and the tenant's morning newspaper was left in front of the tenant's door during the day. According to Tenant #13's service plan of 4-14-08, the tenant required medication reminders at 8:00 a.m. and 4:00 p.m. and a dressing reminder at 8:00 a.m. The nurse stated that prior to the tenant's hospitalization for a hip fracture, family were filling the medication minders for the tenant on a weekly basis and staff were providing verbal medication reminders in the morning and evening. These instructions were written on the caregivers assignment sheet for both the morning and evening shift as "remind to take medications" as both the tenant and family requested. The verbal reminders in the morning and evening were not documented on the medication sheet or MAR. Staff #3 stated she did not remind the tenant at 8:00 a.m. of medications on 11-3-08. She stated it was her job to remind the tenant to be dressed by 8:00 a.m. on 11-3-08 and the tenant was not dressed by 8:00 a.m. Staff #3 stated throughout the day she did not check on the tenant. Staff #11 stated she did not remind the tenant at 4:00 p.m. of medications because the task sheet indicated at bedtime or 8:00 p.m. Staff #11 stated the tenant was not dressed on her shift and he/she was wearing pajamas. She checked on the tenant at 5:30 p.m. after the tenant's family member called and asked her to check on the tenant. Staff #11 stated the first time she saw the tenant on 11-3-08 was between approximately 5:30 and 6:00 p.m.

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

F. Other – The provisions of this section address the program's noncompliance with other applicable statutory and administrative rule requirements.

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

Monitoring Observation: Tenant file reviews, staff file audits and review of MARs indicated the program did not consistently follow the Plan of Correction (POC) that was submitted on 9-11-08.

- Regulatory Insufficiency: The program did not consistently follow the POC submitted to the Department in response to a recertification visit and a complaint investigation. (25.8(3))

Dated this 25th day of February, 2009.