

CHESTER J. CULVER  
GOVERNOR

PATTY JUDGE  
LT. GOVERNOR

February 19, 2009

**Complaint Intake:** #19524R-C  
#18205R-C  
#19334R-C  
#21233-C  
#21441-A

Libby Bloye, RN  
Oak Park Place  
1381 Oak Park Place  
Dubuque, IA 52002-2286

**RE:** I. Final Complaint Investigation Report Revisit – #19524R-C, #18205R-C & #19334R-C and Complaint Investigation #21233-C & #21441-A– Dubuque, IA  
II. Immediate Sanction - Conditional Operation  
III. Civil Penalty  
IV. Hearings and Appeals  
V. Conclusion

Dear Ms. Bloye:

**I. Final Complaint Investigation & Complaint Investigation Revisit Report – Oak Park Place, Dubuque, IA**

Enclosed is the **Final Complaint Investigation & Complaint Investigation 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 **Regulatory Insufficiencies** in the areas of: Staffing, Structural Requirements and Other.

DIA is accepting the Plan of Correction (POC).

**II. Immediate Sanction - Conditional Operation**

As reflected in this Report, the program failed to comprehensively follow the regulations in 321 IAC Chapter 25. Due to the program's noncompliance, current Regulatory Insufficiencies and the findings of the on-site monitoring visit of January 5 & 6, 2009, Oak Park Place's Conditional Certificate, effective August 26, 2008, remains in effect. The Conditional Certificate is to continue until such time as the program is in compliance, but in no case longer than August 25,

LUCAS STATE OFFICE BUILDING, 321 EAST 12TH STREET, DES MOINES, IOWA 50319-0083

ADMINISTRATION  
(515) 281-5457  
FAX: (515) 242-6863

ADMINISTRATIVE HEARINGS  
(515) 281-4843  
FAX: (515) 281-4477  
Telephone Number for the Hearing Impaired: (515) 242-6515

HEALTH FACILITIES  
(515) 281-4115  
FAX: (515) 242-5022

INVESTIGATIONS  
(515) 281-5714  
FAX: (515) 242-6507

2009. The Conditional Certificate is issued as an alternative to denial, suspension or revocation pursuant to Iowa Code section 231C.10(12).

The previous sanctions of completing Dependent Adult Abuse (DAA) training of all remaining staff and the submission of documentation to DIA, the restriction from admitting any new tenants, the requirement to submit monthly updates to DIA of medication reviews and nurse delegation training forms, life safety training forms and dependant adult abuse training on all staff, are discontinued.

Amended sanctions include: a Conditional Certificate, effective August 26, 2008, to remain in effect until such time as the program is in compliance, but in no case longer than **August 25, 2009**, the program may admit up to 2 tenants per week, and the program is required to conduct Life Safety Code training with all staff in regard to the securing of all chemicals and submit this documentation and training agenda to DIA.

While effective immediately, the program may appeal these sanctions by filing an appeal within 30 days of issuance of this letter.

### III. Civil Penalty

If no appeal is requested within 30 days of receipt of this Final Report the civil penalty obligation, in the amount of two thousand (\$2,000.00) dollars, is required.

### IV. Hearings/Appeals

The Program may appeal the DIA decision as related to the sanctions in accordance with 321 IAC 26.4, within 30 days of notice, by submitting a request for hearing 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

The Plan of Correction is accepted. The Conditional Certificate and above sanctions are in effect. 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.

Oak Park Place is being assessed a \$2,000.00 civil money penalty.

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 and Complaint Revisit Investigation Report**

**Assisted Living Program:**

Ms. Toni Carruthers, Acting Administrator  
Oak Park Place Assisted Living  
1381 Oak Park Place  
Dubuque, IA 52002-2286

**Complaint Intake #:** 19524R-C  
18205R-C  
19334R-C  
21233-C  
21441-A

**Date of Investigation:**

January 5 & 6, 2009

**Monitor(s):**

Hal Chase, RN BSN MPH  
Stephanie Cummins, MA  
Ann Martin, 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 on-site visit was conducted at Oak Park Place on January 5 & 6, 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:	31
Current number of tenants with cognitive disorder:	3
Total Population of GPP:	34

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

Total Population of DSP:	13
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**Total Census of ALP:**

47

**\*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, Nurse Review, Food Service, Staffing and Other.

The March 31, 2008 recertification revisit resulted in a fine of \$2,500.00 with Regulatory Insufficiencies in the areas of: Evaluation of Tenants, Service Plans, Medications, Nurse Review and Other.

The July 24, 2008 complaint, complaint revisit and 2<sup>nd</sup> recertification revisit resulted in a fine of \$4,000.00, the issuance of a Conditional Certificate effective August 26, 2008 and a sanction that the program will train all staff on Dependent Adult Abuse and present documentation of the training to the Iowa Department of Inspections and Appeals (DIA). Regulatory Insufficiencies were noted in the following areas: Evaluation of Tenants, Criteria for Exclusion of Tenants, Staffing and Other.

The September 25 & 29, 2008 complaint visit resulted in a fine of \$10,000.00. The conditional certificate, effective August 26, 2008, remains in effect and the sanction of completing Dependent Adult Abuse Training and presenting documentation of the training to DIA continues. Other sanctions include a restriction on admitting new tenants, submission of monthly updates of medication reviews (MARs), submission of nurse delegation training forms and the submission of life safety training forms.

**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 received a regulatory insufficiency in regard to Tenant #2 and #3 at the time of the September 2008 onsite, related to not consistently completing evaluations, as needed, to determine the tenant's continued eligibility for the program and to determine any modifications to the services.

Monitoring Observation: Tenant #3 was discharged from the program on 12-01-08.

Tenant #2, an 89 year old, was admitted on 8-12-08 and diagnoses include: History of Breast Cancer, Diverticulitis, Hypertension (HTN) and Osteoarthritis. The tenant was staged at a four on the Global Deterioration Scale (GDS), which indicated moderate cognitive impairment. Functional, cognitive and health evaluations were completed on 10-2-08, 12-18-08 and 12-28-08 appropriately. Cognitive evaluations were completed by the Registered Nurse (RN).

- 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 received a regulatory insufficiency in regard to Tenant #2 and #3 at the time of the September 2008 onsite, related to not consistently updating the service plan, as needed, and for not consistently developing service plans based on evaluations.

Monitoring Observation: Tenant #3 was discharged from the program on 12-01-08.

Tenant #2's service plan was updated appropriately on 10-2-08, 12-18-08 and 12-28-08.

- 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 #19334R-C: The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently following Tenant #1's physician orders related to notifying the physician when blood sugars were less than 60mg/dl or greater than 450mg/dl.

Monitoring Observation: A review of Tenant #1's MARs for the period of October 2008 through January 5, 2009, indicated there were fourteen incidents of the tenant's blood sugars being outside the parameters set by the physician. A Diabetic Monitoring Form was used to record the date and time of the abnormal blood sugar values, the date and time the physician and RN were notified, if new orders were given and documentation indicating a RN review was completed.

Complaint Allegation #19334R-C: The program received a regulatory insufficiency at the time of the September 2008 onsite related to the administration of medications not being 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) for Tenant #2.

Monitoring Observation: A review of Tenant #2's Medication Administration Records (MARs) for the period of October 2008 through January 5, 2009 indicated medications administered by the program were administered and documented in accordance with minimum standards of nursing practice.

The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently administering medications appropriately as staff administering medications would leave medications out for tenants in the general population and dementia unit.

Monitoring Observation: The RN indicated only one tenant had orders to have medication left with the tenant. Medications administered to tenants in the dementia unit were not left for tenants to take. The RN indicated staff were instructed to report any requests or statements made by tenants to leave medications with them.

The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently documenting medications given to Tenant #3.

Monitoring Observation: Tenant #3 was discharged from the program on 12-01-08.

Complaint Allegation #19524R-C The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently administering medications by an Iowa-licensed registered nurse or advanced 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 a physician and in accordance with minimum standards of nursing practice related to not having staff available to administer medications to tenants.

Monitoring Observation: A review of staff schedules for the period of November 2008 through January 5, 2009, indicated there were sufficient staff available to administer medications during each of the three shifts.

Complaint Allegation #21233-C: It was alleged staff administers medications to a tenant and leaves the medication in the room. It was alleged the tenant has put the medication in a drawer or flushed them down the toilet when the medications are left by staff.

Monitoring Observation: Staff #2, #4 and #14 indicated nursing coverage was sufficient and the nurse was accessible by telephone. A community meeting with six tenants was held and the tenants stated the nurse was available and accessible.

A medication pass was observed and appropriate medication protocol was observed.

Staff #4 stated she did not leave medications sitting in the tenant rooms. Staff #14 stated Tenant #5 has medications left in his/her apartment. Tenant #5 has a physician's order to have medications left in the apartment. Staff #6 stated Tenant #5 is the only tenant where medications are left in the room.

- Regulatory Insufficiency: None noted.

**D. 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 #18205R-C: The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently providing sufficient trained staff at all times to fully meet tenants identified needs.

Monitoring Observation: A community meeting with six tenants was held. The tenants described staff as great, nice and good. They stated there were sufficient staff to meet their needs and they felt like they were getting what they signed up for. The tenants indicated when they pushed their pendant they waited approximately five to ten minutes. Staff #2, #4 and #14 indicated there were enough staff to meet the needs of the tenants.

A review of staff schedules for the period of November 2008 through January 5, 2009 indicated there were sufficient staff available to administer medications during each of the three shifts.

- Regulatory Insufficiency: None noted.

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

Monitoring Observation: Interviews with Staff #2 and #14 indicated the nurse had not shadowed Activities of Daily Living (ADLs). Review of staff training files indicated ADLs were delegated from the nurse; however, shadowing of the ADLs was not documented. The nurse indicated all direct care staff were trained on ADL competencies, reviewed the skills checklist and discussed procedures for each delegated task. According to the nurse, each staff had a quiz regarding competency of ADL's and was observed for skills proficiency. The nurse stated the program had a large base of certified staff and staff had demonstrated skills within the last 6 months prior to her becoming the Patient Services Director.

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

Complaint Allegation #18205R-C: The program received a regulatory insufficiency at the time of the September 2008 onsite related to not consistently ensuring all staff of a program are able to implement the program's accident, fire safety and emergency procedures.

Monitoring Observation: Review of staff files indicated fire and emergency procedures training was completed appropriately for Staff #1, #2, #3, #4, #5, #7, #8, #9, #10 and #11.

Staff #2 and #14 indicated they had training on the fire and emergency procedures and felt comfortable with the training.

- Regulatory Insufficiency: None noted.

Complaint Allegation #21233-C: It was alleged Staff #6 takes doctor's orders and gives injections and is not trained to do so.

Monitoring Observation: The nurse indicated she or the Licensed Practical Nurse (LPN) are the only staff that take verbal physician orders over the telephone. If she is not present a fax must be sent and she is notified prior to any changes made in the MAR or for any medication administration. Staff #6 had documented nurse delegation training for insulin draw up/syringe preparation and insulin competency.

- Regulatory Insufficiency: None noted.

Complaint Allegation #21233-C: It was alleged the program did not give notification to family when a tenant gave notice of transfer. It was alleged the Housing Director and Staff #6 do not work well with families or tenants.

Monitoring Observation: IAC Chapter 25 for assisted living programs does not have regulations related to this allegation.

- Regulatory Insufficiency: None noted.

**E. Dementia-specific education for program personnel** – A dementia-specific program shall employ or contract with personnel who have received appropriate dementia-specific education and training. [321 IAC 25.34]

The program received a regulatory insufficiency at the time of September 2008 onsite related to not having personnel, who have direct-contact with tenants, receive a minimum of six hours of continuing education annually.

Monitoring Observation: Review of staff files indicated dementia specific training was completed appropriately for Staff #1, #2, #3, #4, #5, #7, #8, #9, #10 and #11.

- Regulatory Insufficiency: None noted.

**F. Structural requirements** – The structure of the program shall be designed and operated to meet the needs of the tenants. The buildings and grounds shall be well-maintained, clean, safe and sanitary.

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

Monitoring Observation: A tour of the dementia unit revealed chemicals including: a no rinse sanitizer, a disinfectant and dry erase board cleaner were found in unlocked cabinets. The chemicals were removed and placed in secure locations on 1-5-09. Pictures of the chemicals were obtained.

- Regulatory Insufficiency: The program did not consistently provide buildings and grounds that were well maintained, clean, safe and sanitary. (25.40(1)b)

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

Complaint Allegation #19334R-C: The program received a regulatory insufficiency at the time of the September 2008 on-site related to falsifying staff training records regarding Dependent Adult Abuse.

Monitoring Observation: Review of staff files indicated Staff #1, #2, #3, #4, #5, #7, #8, #9, #10 and #11 had documented dependent adult abuse training. Staff signed an acknowledgement indicating they had received the Participant Handbook for the mandatory reporter training and staff were responsible for knowing the information.

- Regulatory Insufficiency: None noted.

Complaint Allegation #21441-A: It is alleged a tenant is missing between \$40.00 and \$80.00 in cash and \$50.00 in gift cards. It is alleged a staff person had cashed the gift cards at a local business.

Monitoring Observation: DIA monitors discovered a suspected dependent adult abuse situation, while on-site. The program did not report the suspected dependent adult abuse to DIA. According to a staff file review, the Housing Director completed the Trainer Course for Dependent Adult Abuse Mandatory Reporter Curriculum.

The Housing Director indicated on 12-24-08 that Staff #6 called him and stated Tenant #6's family reported two gift cards were missing.

Tenant #6, a 74 year old, was admitted on 12-12-07 and diagnoses include: Left Parietal Abscess with Residual Seizure Disorder, Mild to Moderate Right Hemiplegia, Speech Difficulties, Grand Mal Seizures, Hypercholesterolemia, Anxiety/Depressive Neurosis and Probable Multi-Infarct Dementia. The tenant is staged at a three on the GDS, which indicates mild cognitive decline. According to the tenant's service plan of 12-20-08, the tenant needs assistance with Activities of Daily Living (ADLs) including; ambulation, bathing, grooming, toileting and medication administration.

- Regulatory Insufficiency: The program did not report suspected exploitation of a dependent adult to the department. (235E.2(2))

The program received a regulatory insufficiency at the time of the September 2008 onsite in regard to not fully implementing the Plan of Correction.

Monitoring Observation: The program's final POC, reviewed and accepted on 12-12-08 indicated the program planned to make corrections in the areas of: Evaluation of Tenants, Service Plans, Medications, Staffing, Dementia Specific Training and Other. These corrections were fully implemented.

- Regulatory Insufficiency: None noted.

Dated this 19<sup>th</sup> day of February, 2009.