

Tony Evers
Governor



DIVISION OF QUALITY ASSURANCE
NORTHEASTERN REGIONAL OFFICE
200 NORTH JEFFERSON STREET SUITE 501
GREEN BAY WI 54301

Kirsten L. Johnson
Secretary

State of Wisconsin
Department of Health Services

Telephone: 920-448-5252
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TTY: 711 or 800-947-3529

May 14, 2024

ELECTRONIC MAIL
SOD #0NUA13

NOTICE and ORDER
NOTICE OF VIOLATION
ORDER TO COMPLY WITH REQUIREMENTS
ORDER NOT TO ADMIT NEW OR ADDITIONAL RESIDENTS
NOTICE OF SPECIAL ORDERS
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NOTICE OF REVISIT FEE

Jordan Lange
3250 E. River Road NE
Rochester, MN 55906

C/O Licensee: PPRC LLC

Re: Apple Creek Place I (0017916)
5102 N. Cherryvale Avenue
Appleton, WI 54913

Dear Jordan Lange:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of Apple Creek Place I, located at 5102 N. Cherryvale Avenue, Appleton, WI 54913, and sets forth appeal rights, if any. This regulatory action is taken by the Department of Health Services (Department) pursuant to Wis. Stat. § 50.03(5g), and Wis. Admin. Code ch. DHS 83.

NOTICE OF VIOLATION

On March 6, 2024, a verification visit, complaint investigation and self-report review were concluded for Apple Creek Place I by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the above-referenced facility was in substantial compliance with Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, or both, which set forth requirements for the administration and operation of a community-based residential facility (CBRF). The Department

is issuing Statement of Deficiency (SOD) #0NUA13 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD #0NUA13 is enclosed.

ORDER TO COMPLY WITH REQUIREMENTS

1. Pursuant to Wis. Stat. § 50.03(5g)(b)3., effective immediately, the licensee shall comply with the requirements specified by Wis. Stat. ch. 50 and Wis. Admin. Code ch. DHS 83 that establish the standards for the operation of the Community Based Residential Facility in order to protect and promote the health, safety and welfare of the residents.

AS SOON AS PRACTICABLE AND WITHOUT DELAY, within 45 days of receipt of this notice, the licensee shall achieve and maintain substantial compliance with all requirements. All operational and resident records required as evidence of compliance with applicable rules will be available to department representatives upon request.

The Department may, without notice, conduct an inspection to verify the licensee's corrective action at any time after the date of compliance. Pursuant to Wis. Stat. § 50.03(5g)(cm), the department may impose a \$200 inspection fee for an on-site inspection to review compliance of violations resulting in enforcement action.

ADDITIONALLY:

WITHIN 10 DAYS of receipt of this notice, the licensee may request an extension for the date of compliance. The request for an extension must be submitted to the Assisted Living Regional Director, Northeastern Regional Office, at DHSDQABALNERO@dhs.wisconsin.gov. The Regional Director will communicate to the licensee a decision on the date of compliance extension.

ORDER NOT TO ADMIT NEW OR ADDITIONAL RESIDENTS

Based on the results of the Department's investigation, and pursuant to Wis. Stat. § 50.03(5g)(b)7., **EFFECTIVE UPON RECEIPT OF THIS NOTICE and ORDER**, the Department of Health Services **HEREBY ORDERS** that **Apple Creek Place I NOT ADMIT ANY NEW OR ADDITIONAL RESIDENTS** until all violations in Statement of Deficiency 0NUA13 are corrected, compliance is verified by the Department, and this Order is rescinded in writing.

SPECIAL ORDERS

Based on the results of the Department's investigation, and pursuant to Wis. Stat. § 50.03(5g)(b), **EFFECTIVE UPON RECEIPT OF THIS NOTICE and ORDER**, the Department of Health Services **HEREBY ORDERS** that **Apple Creek Place I:**

1. Pursuant to Wis. Stat. § 50.03(5g)(b)6., EFFECTIVE IMMEDIATELY, the licensee shall ensure the provision of services to meet residents' physical and mental health needs. The licensee will correct all identified deficiencies in consultation with a qualified professional (e.g., registered nurse, health care administrator), not currently affiliated with the licensee. The consultant will have knowledge of assisted living regulations (e.g., Wis. Admin. Code ch. 83, Wis. Stat. ch. 50) and knowledge of the client groups served by Apple Creek Place I. The licensee will provide the consultant with a copy of Statement of Deficiency 0NUA13, along with this Notice and Order letter prior to providing consultation services.

Consultation will include the development (or revision) of written procedures and staff training (as appropriate) to address:

Adequate Staff

- Staffing patterns will be sufficient to meet the personal care needs of residents, to ensure needed supervision, to provide needed services (e.g., medication management, toileting, bathing, interventions to prevent falls, personal cares, meals), and to facilitate a safe evacuation of the building in the event of an emergency.
- When a resident or residents (as a group) require the assistance of two or more staff members to address care and service needs, to provide supervision, or to evacuate the building in an emergency, the licensee will ensure sufficient, qualified staff members are on duty, present and available to assist residents at all times.
- Written staff schedules will be current and shall include each employee's full name, job assignment and time worked. Records will be amended, as necessary, to ensure an accurate and complete record of time worked by all facility employees, and/or employees of contract agencies providing routine services to facility residents.

Activity Program

- Including how the facility will ensure a daily activity program to meet the interests and capabilities of the residents. Employees shall encourage and promote resident participation in the activity program. The provider will provide information and assistance to facilitate participation in personal and community activities. Furthermore, the licensee will ensure: (a) activity assessments will be completed (or reviewed and updated) for each resident and will be maintained in each resident's record. Each resident's participation in leisure activities and/or daily activity programming will be documented. (b) develop and provide an activity program based on the interests/needs identified in resident assessments and shall offer residents the opportunity to participate in meaningful social, recreational, and therapeutic programs. (c) staffing patterns will be sufficient to provide and actively promote resident participation in a program of daily activities to achieve and maintain the resident's highest level of functioning. (d) for residents with cognitive impairments, behavioral symptoms, physical impairments, or mental health needs, the facility shall arrange a program of daily activities designed to provide interaction and stimulation consistent with the individual capabilities (and needs) of each resident. (e) retain copies of activity schedules for the most recent 3 months and shall make records available to Department representatives upon request.

Caregiver Misconduct

- A written procedure to address recognizing, investigating, documenting, and reporting allegations of abuse, neglect, misappropriation of property, and injuries of unknown origin. The procedure will address requirements specified by Wis. Stat. ch. 50 and Wis. Admin. Code chs. DHS 13 and 83. The procedure will incorporate steps to ensure that residents are protected while a determination on the matter of caregiver misconduct is pending during an investigation. Links to reporting regulations and resource materials can be found at:

<https://www.dhs.wisconsin.gov/caregiver/complaints.htm>

- Retroactively, with available information, document a complete investigation report of the alleged incidents of caregiver misconduct described in Statement of Deficiency (SOD) 0NUA13. The investigation will conform to requirements and guidelines specified by Wis. Admin. Codes ch. DHS 13, ch. DHS 83 and The Wisconsin Caregiver Program Manual.

- WITHIN 14 DAYS of receipt of this notice, the provider will submit a copy of the investigation report to the Department's Office of Caregiver Quality for department review.

Additionally:

- All managers and resident care staff (as appropriate) will receive in-service training regarding the provider's written procedures required by Order #1.

- Training will be documented in employee files and will include the date/duration of training, the signature/qualifications of the instructor, and an outline of course content.

- A copy of the written procedures and all documentation as evidence of meeting the requirements in Order #1 will be made available to department representatives upon request.

Additionally:

- All managers and resident care staff (as appropriate) will receive in-service training regarding the facility's written procedures required by Order #1.

- Training will be documented in employee files and will include the date/duration of training, the signature/qualifications of the instructor, and an outline of course content.

- Consultation activities, including dates of consultation, will be documented, signed and dated by the consultant.

- A copy of the written procedures and all documentation as evidence of meeting the requirements in Order #1 will be made available to department representatives upon request.

NOTICE OF FORFEITURE*

In addition to other sanctions enumerated in Wis. Stat. § 50.03(5g)(b)1. to 8., according Stat. § 50.03(5g)(c)1.b., the Department of Health Services may impose a forfeiture on a licensee or any other person who violates the applicable statutory provisions or administrative rules governing CBRFs. If imposed, the forfeiture amount may not be less than \$10 or more than \$1,000 per day for each violation.

The Department has determined that you violated state statutes or administrative code provisions, or both, as identified in the enclosed SOD #0NUA13. Therefore, pursuant to Wis.

* According to Art. X, §2 of the Wisconsin Constitution and Wis. Stat. § 50.03(5g)(c)1.c., all forfeitures collected by the Department are deposited in the State's School Fund.

Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$7,450.00 IS IMPOSED** for the following violations described in SOD #0NUA13.

<u>TAG</u>	<u>DHS Code</u>	<u>Forfeiture Amount</u>
N158	83.12(2)(a)	\$400.00
N164	83.12(4)(b)	\$200.00
N243	83.21(1)-(3)	\$2,400.00
N352	83.32(3)(h)	\$350.00
N389	83.35(3)(d)	\$900.00
N396	83.36(1)(a)	\$900.00
N409	83.37(1)(j)	\$600.00
N427	83.38(1)(c)	\$500.00
N454	83.42(1)	\$600.00
N481	83.43(1)	\$300.00
N526	83.47(2)(e)	\$300.00

Total Forfeiture Due: \$7,450.00

You must pay the Total Forfeiture amount within ten (10) days of receipt of this NOTICE and ORDER.

REDUCED FORFEITURE OPTION

If you choose not to appeal the forfeiture, any of the violations in SOD #0NUA13, **AND** any Orders contained in this NOTICE and ORDER, then the Department will reduce the total forfeiture due by 35%.

This 35% reduced forfeiture option also applies to any accruing forfeiture. Final calculation of any accruing forfeiture due will be based on a verified date of compliance.

At this time, the reduced forfeiture amount due to the Department within ten (10) days of receipt of this NOTICE and ORDER is \$4,842.50.

Please make the forfeiture payment payable to “DHS 639” and send it to:

ENFORCEMENT SPECIALIST
DHS / DQA / BAL
PO BOX 2969
MADISON, WI 53701-2969

NOTICE OF RIGHT TO APPEAL

According to Wis. Stat. §§ 50.03(5g)(b) and (f), you may request an administrative hearing of the Department’s action. To notify the Department of your request for a hearing, your written request **must be filed with (served upon) the Division of Hearings and Appeals (DHA)**

within ten (10) days after receipt of this NOTICE. Please note that according to Wis. Admin. Code § HA 1.03(3)(a), materials **mailed** to DHA are **considered filed on the date of the postmark**. Send your request for a hearing to:

CBRF APPEAL
DHA
P.O. BOX 7875
MADISON, WI 53707-7875

Include in your written request for a hearing **ALL** of the following:

- ✓ The name and address of the facility;
- ✓ What you are appealing (attach a copy of this NOTICE to your appeal);
- ✓ The effective date of the action;
- ✓ A concise statement of the reasons for objecting to the action;
- ✓ What type of relief you are seeking; and
- ✓ The name, address and telephone number of any person who may be expected to appear on behalf of the facility

YOUR APPEAL MAY BE DENIED OR DISMISSED IF THE REQUEST IS INCOMPLETE OR NOT FILED WITH DHA WITHIN THE 10-DAY APPEAL TIME.

Please note that according to Wis. Stat. § 50.03(5g)(c)1.c., if you file an appeal, then payment of any forfeiture is due within 10 days after you receive the final decision in the case after exhaustion of administrative review.

NOTICE OF REVISIT FEE

According to Wis. Stat. § 50.03(5g)(cm), if the Department imposes a sanction on, or takes other enforcement action against a community-based residential facility for violation of this subchapter or rules promulgated under it, and the Department subsequently conducts an onsite inspection to review the facility's action to correct the violation(s), the Department may impose a \$200 inspection fee on the community-based residential facility.

On March 6, 2024, a verification visit was concluded at Apple Creek Place I by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the violation(s) contained in Statement of Deficiency (SOD) #0NUA12 were corrected. **Therefore, an inspection fee of \$200 is being assessed.**

Please send a check or money order in the amount of \$200 made payable to "Division of Quality Assurance" and send it to:

Division of Quality Assurance
Bureau of Assisted Living
Northeastern Regional Office

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Apple Creek Place I
May 14, 2024

200 North Jefferson Street, Suite 501
Green Bay, WI 54301

The revisit fee is due within ten (10) days of receipt of this Notice. Failure to submit this revisit fee will result in additional department action against Apple Creek Place I. There are no appeal rights for revisit fees.

POSTING OF NOTICES

According to Wis. Admin. Code DHS §§ 83.13(3)(a) and 83.14(2)(h), each facility shall immediately upon receipt post next to its CBRF license, and in a public area that is visually and physically available, any citation/statement of deficiency, notice of revocation, notice of non-renewal, and any other notice of enforcement action. Citations and statements of deficiency shall remain posted for ninety (90) days following receipt. Notices of revocation, non-renewal, and other notices of enforcement action shall remain posted until a final determination is made.

Therefore, the license shall immediately post this Notice and Order letter and it shall remain posted until a final determination is made.

* * *

If you have questions about this letter, please contact Vicky Wittman, Assisted Living Regional Director, at (920) 448-4800.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Brotheridge". The signature is fluid and cursive, with a long horizontal line extending from the end.

Kenneth Brotheridge, Assisted Living Director
Bureau of Assisted Living
Division of Quality Assurance

Enclosure
KB/clr

cc: Ombudsman, Outagamie County
Aging/Disability Resource Center, Outagamie County
Outagamie County Human Services
Waiver Agencies
Division of Medicaid Services