

Tony Evers
Governor



Kirsten L. Johnson
Secretary

State of Wisconsin
Department of Health Services

DIVISION OF QUALITY ASSURANCE

BUREAU OF ASSISTED LIVING
SOUTHEASTERN REGIONAL OFFICE
819 N 6TH ST ROOM 609B
MILWAUKEE WI 53203-1606

Telephone: 414-227-2005
Fax: 414-227-3903
TTY: 711 or 800-947-3529

May 29, 2024

ELECTRONIC MAIL
SOD #5WFX12

NOTICE and ORDER

NOTICE OF VIOLATION

ORDER TO COMPLY WITH REQUIREMENTS

NOTICE OF SPECIAL ORDERS

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NOTICE OF REVISIT FEE

Wesley Michael
6168 S Swift Avenue
Cudahy, WI 53110

C/O Licensee: LWM Operations LLC

Re: South Shore House, 0019494
6168 S Swift Avenue
Cudahy, WI 53110

Dear Wesley Michael:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of South Shore House, located at 6168 S Swift Avenue, Cudahy, 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 May 13, 2024, a verification visit was concluded for South Shore House 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)

#5WFX12 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD #5WFX12 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, the licensee shall achieve and maintain substantial compliance with all requirements prior to the expiration of the probationary license on 07/31/2024. 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, and prior to the expiration of the probationary license on 07/31/2024. 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.

2. Pursuant to Wis. Stat. § 50.03(5g)(b)6., the licensee will comply with requirements specified by Wis. Admin. Code § DHS 83.59(1)(a). WITHIN 30 DAYS of receipt of this notice, the licensee shall ensure all habitable floors shall have at least 2 grade level or ramped exits to grade and the exits will have a cleared, hard surface, barrier-free walkway to a public way or safe distance away from the building. Pending full compliance with Wis. Admin. Code § DHS 83.59(1)(a), the licensee will implement all necessary measures to ensure the safe evacuation of residents requiring assistance with ambulation.

3. Pursuant to Wis. Stat. § 50.03(5g)(b)6., WITHIN 7 DAYS of receipt of this notice, the licensee shall provide the legal representative and the case manager (if any) of each resident with a copy of Statement of Deficiency 5SWX11 and a copy of this Notice and Order letter. The licensee shall retain evidence, acceptable to the department, to verify compliance with Order #1. Acceptable documentation will be a signed, certified mail receipt or a verification letter or email from the legal representative and case manager. Required evidence will be made available to the department representatives upon request.

PROBATIONARY LICENSE

1. Based on the results of the Department's investigation, and pursuant to Wis. Stat. §§ 50.03(5g)(b)3. and (b)6., the licensee shall correct all violations identified in Statement of Deficiency (SOD) 5WFX11 and will achieve substantial compliance with all laws and administrative rules governing the facility and its operation prior to expiration of the facility's Probationary License. IF the licensee has not achieved substantial compliance with all laws and administrative rules governing the facility and its operation **AND IF** the violations identified in

SOD 5WFX12 remain substantially uncorrected, the **PROBATIONARY LICENSE** for South Shore House may be **INVALID** and the Department may **NOT ISSUE A REGULAR LICENSE for South Shore House**, 6168 S. Swift Ave., Cudahy, WI 53110.

This NOTICE is provided in accordance with:

- Wis. Stat. § 50.03(4m)(b), whereby, if the applicant for licensure as a community-based residential facility has not been previously licensed under this subchapter or if the community-based residential facility is not in operation at the time application is made, the department shall issue a probationary license. Prior to the expiration of a probationary license, the department shall evaluate the community-based residential facility. In evaluating the community-based residential facility, the department may conduct an inspection of the community-based residential facility. If, after the department evaluates the community-based residential facility, the department finds that the community-based residential facility meets the applicable requirements for licensure, the department shall issue a regular license under sub. (4)(a)1.b. If the department finds that the community-based residential facility does not meet the requirements for licensure, the department may not issue a regular license under sub. (4)(a)1.b.

- Wis. Admin. Code § DHS 83.08(2), whereby the Department shall deny a probationary license or regular license to any applicant who does not substantially comply with any provision of Wis. Admin. Code ch. DHS 83 or Wis. Stat. ch. 50.

ADDITIONALLY:

WITHIN 7 DAYS of receipt of this notice, the licensee shall identify and submit the date of compliance for SOD 5SWX12 to the Assisted Living Regional Director, Southeastern Regional Office, at DHSDQABALSERO@dhs.wisconsin.gov.

NOTICE OF FORFEITURE*

In addition to other sanctions enumerated in Wis. Stat. § 50.03(5g)(b)1. to 8., according to 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 #5WFX12. Therefore, pursuant to Wis. Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$1,250.00 IS IMPOSED** for the following violations described in SOD #5WFX12.

* 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.

<u>TAG</u>	<u>DHS Code</u>	<u>Forfeiture Amount</u>
N223	83.18(1)	\$400.00
N481	83.43(1)	\$150.00
N631	83.59(1)(a)	\$500.00
N639	83.59(2)(a)	\$200.00

Total Forfeiture Due: \$1,250.00

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 #5WFX12, **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 \$812.50.

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 May 13, 2024, a verification visit was concluded at South Shore House by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the violation(s) contained in Statement of Deficiency (SOD) #5WFX11 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
Southeastern Regional Office
819 North 6th St., Room 609B
Milwaukee, WI 53203-1606

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 South Shore House. 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 MaryBeth Hoffman, Assisted Living Regional Director, at (414) 227-2005.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Brotheridge", is enclosed in a rectangular box.

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

Enclosure
KB/ram