

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

July 24, 2024

ELECTRONIC MAIL
SOD #8DXE15

NOTICE and ORDER
NOTICE OF VIOLATION
ORDER TO COMPLY WITH REQUIREMENTS
ORDER NOT TO ADMIT NEW OR ADDITIONAL RESIDENTS - EXTENDED
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Jason Lindemann
PO Box 3006
Oshkosh, WI 54903

C/O Licensee: Care Partners Assisted Living LLC

Re: Care Partners Assisted Living Hortonville (0016767)
112 Harris Way
Hortonville, WI 54944

Dear Mr. Lindemann:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of Care Partners Assisted Living Hortonville, located at 112 Harris Way, Hortonville, WI 54944, 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 2, 2024, a verification visit, complaint investigation and self-report review were concluded for Care Partners Assisted Living Hortonville 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

www.dhs.wisconsin.gov

(CBRF). The Department is issuing Statement of Deficiency (SOD) #8DXE15 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD #8DXE15 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 – EXTENDED

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 extends the order issued on May 15, 2023 with Statement of Deficiency (SOD) 8DXE13, and on January 11, 2024 with SOD 8DXE14, that **Care Partners Assisted Living Hortonville Not Admit any New or Additional Residents** until all violations in SOD 8DXE15 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 **Care Partners Assisted Living Hortonville:**

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 shall develop and implement corrective measures in consultation with a registered nurse (RN) not currently affiliated with the licensee, at the licensee's expense. The RN 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 Care Partners Assisted Living Hortonville. The licensee will provide the consultant with a copy of the Statement of Deficiency 8DXE15, 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:

Behavior Management

The procedure shall include, but is not limited to: (a) identifying specific behavior patterns that are or may be harmful to the resident or others (e.g. physical aggression, sexual aggression or other behavioral safety risks), (b) assessing and documenting contributing factors to the behaviors, (c) developing and implementing the Individualized Service Plan (ISP) with specific individualized interventions to reduce incidences of these behaviors, (d) staff response when the identified interventions are not effective, (e) monitoring the effectiveness of any behavioral intervention including the use of PRN psychotropic medications, and (f) notifying the resident's legal representative and physician when there is a significant change in a resident's mental condition.

Resident Relationships

The procedure shall include, but is not limited to: (a) identifying a resident's right to engage in consensual relationships and a resident's responsibility to not infringe on the rights of other residents, (b) assessing and documenting a resident's sexual expression and ability to consent to sexual contact, (c) developing and implementing the Individualized Service Plan (ISP) with specific individualized interventions to support safe intimate or sexual expression, and (d) directing how staff respond to incidents or reports of inappropriate sexual contact involving residents, such as sexual contact involving an incompetent resident.

Medication Management

Including how the provider will: (a) document medication orders, medication administration, missed/refused doses; (b) ensure residents receive medications at the intervals and dosages prescribed; (c) prevent medication errors; (d) respond to medication errors if they occur; (e) obtain prescriptions and refills timely; (f) monitor for adverse side effects; and (g) discontinue and dispose of medications.

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.

- 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.

2. Pursuant to Wis. Stat. § 50.03(5g)(b)6., WITHIN 10 DAYS of receipt of this notice, the licensee will provide the legal representatives and case managers (if any) for Resident 1, Resident 2, and Resident 3 with a copy of Statement of Deficiency 8DXE15 and a copy of this Notice and Order letter. The licensee shall retain documentation, acceptable to the department, to verify compliance with Order #2. Acceptable documentation will be a signed, certified mail receipt or a verification letter or email from each legal representative and case manager. The documentation required by Order #2 will be 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 #8DXE15. Therefore, pursuant to Wis. Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$3,800.00 IS IMPOSED** for the following violations described in SOD #8DXE15.

<u>TAG</u>	<u>DHS Code</u>	<u>Forfeiture Amount</u>
N196	83.14(2)(a)	\$1,500.00
N412	83.37(2)(a)	\$200.00
N433	83.38(1)(i)	\$2,100.00

Total Forfeiture Due: \$3,800.00

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

* 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.

REDUCED FORFEITURE OPTION

If you choose not to appeal the forfeiture, any of the violations in SOD #8DXE15, **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 \$2,470.00.

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 2, 2024, a verification visit was concluded at Care Partners Assisted Living Hortonville by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the violation(s) contained in Statement of Deficiency (SOD) #8DXE14 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
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 Care Partners Assisted Living Hortonville. 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 stroke extending to the right.

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