

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
Fax: 608-224-5704
TTY: 711 or 800-947-3529

April 4, 2025

ELECTRONIC MAIL
SOD #CBLW12

NOTICE and ORDER
NOTICE OF VIOLATION
ORDER TO COMPLY WITH REQUIREMENTS
ORDER NOT TO ADMIT NEW OR ADDITIONAL RESIDENTS
NOTICE OF SPECIAL ORDERS
NOTICE OF IMPOSED FORFEITURE
NOTICE OF RIGHT TO APPEAL
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Cynthia Oerter
109 West Lake Street
Waupaca, WI 54981

C/O Licensee: Pro Health Consul Inc.

Re: Garden Park House (410133)
109 West Lake Street
Waupaca, WI 54981

Dear Cynthia Oerter:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of Garden Park House, located at 109 West Lake Street, Waupaca, WI 54981, 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 December 23, 2024, a complaint investigation and verification visit were concluded for Garden Park 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

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operation of a community-based residential facility (CBRF). The Department is issuing Statement of Deficiency (SOD) # CBLW12 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD # CBLW12 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 **Garden Park House NOT ADMIT ANY NEW OR ADDITIONAL RESIDENTS** until all violations in SOD #CBLW12 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 **Garden Park House:**

1. Pursuant to Wis. Stat. § 50.03(5g)(b)6., effective immediately, the licensee shall develop and implement corrective measures to ensure all residents receive proper care and treatment, that their health and safety are protected and promoted and that their rights are respected. The licensee will correct all environmental related deficiencies identified in Statement of Deficiency (SOD) CBLW12 in consultation with a qualified professional, not currently affiliated with the licensee, at the licensee's expense. 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 Garden Park House. The licensee will provide the consultant with a copy of the SOD CBLW12, along with this Notice and Order letter prior to providing consultation services.

In collaboration with the consultant, the licensee shall develop and implement corrective measures to address:

Accessible Exits

- All habitable floors shall have at least 2 exits providing unobstructed travel to the outside
- Class AS, class ANA, class CS and class CNA CBRFs shall have at least 2 grade level or ramped exits to grade.
- A CBRF serving semi-ambulatory residents shall maintain a cleared, hard surface, barrier-free walkway to a public way or safe distance away from the building for at least 2 primary exits from the building. All other required exits shall have at least a cleared pathway maintained to a public way or safe distance from the building.
- Basement bedrooms shall have at least 2 means of exiting that provide unobstructed egress to the outside or grade level. Windows in the basement shall not be considered exits.

Emergency and Disaster Plans

- The provider shall have a written plan for responding to emergencies and disasters that is readily available to all employees. The plan shall specify the responsibilities of employees.
- The plan shall include procedures for orderly evacuation or other department-approved response during an emergency or disaster. The plan shall include procedures for any resident who refuses to follow evacuation or emergency procedures.

Smoking Policy

- The provider shall develop and implement a written policy on smoking and ensure compliance with all applicable state laws.
- The policy shall designate areas where smoking is permitted, if any, and shall be clearly communicated to residents.

Consultation activities, including dates of consultation, will be documented, signed, and dated by the consultant. Documentation 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 provider's corrective measures 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.

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 # CBLW12. Therefore, pursuant to Wis. Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$1,650.00 IS IMPOSED** for the following violations described in SOD # CBLW12.

<u>TAG</u>	<u>DHS Code</u>	<u>Forfeiture Amount</u>
N205	83.14(2)(j)	\$500.00
N481	83.43(1)	\$400.00
N639	83.59(2)(a)	\$150.00
Z023	50.065(4m)(b)	\$600.00

Total Forfeiture Due: \$1,650.00

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 # CBLW12, **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 \$1,072.50.

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

* 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.

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 December 23, 2024, a verification visit was concluded at Garden Park House by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the violation(s) contained in Statement of Deficiency (SOD) # CBLW11 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 Garden Park 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 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

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Garden Park House
April 4, 2025

Bureau of Assisted Living
Division of Quality Assurance

Enclosure
KB/clr

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