

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

May 9, 2024

ELECTRONIC MAIL
SOD #FIW911

NOTICE and ORDER
NOTICE OF VIOLATION
ORDER TO COMPLY WITH REQUIREMENTS
NOTICE OF SPECIAL ORDERS
NOTICE OF IMPOSED FORFEITURE
NOTICE OF RIGHT TO APPEAL

Alex Massopust
5900 Clearwater Drive
Suite 500
Minnetonka, MN 55343

C/O Licensee: West Bend OPS LLC

Re: New Perspective – West Bend (0013625)
2130 Continental Drive
West Bend, WI 53095

Dear Alex Massopust:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of New Perspective – West Bend, located at 2130 Continental Drive, West Bend, WI 53095, 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 February 9, 2024, a Complaint Investigation was concluded for New Perspective – West Bend 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) # FIW911 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD # FIW911 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.

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 **New Perspective – West Bend**:

1. Pursuant to Wis. Stat. § 50.03(5g)(b)6., EFFECTIVE IMMEDIATELY, the licensee shall ensure that the CBRF and its operation comply with this chapter and with all other laws governing the CBRF and its operation. The licensee may not permit the existence or continuation of any condition which may create a substantial risk to the health, safety, or welfare of any resident.

WITHIN 45 DAYS of receipt of this notice, the licensee shall develop and implement corrective measures to resolve each deficiency identified in SOD FIW911. The licensee's corrective measures, at a minimum, shall include the development (or review) of a written procedure to address:

Misconduct

- When the provider becomes aware of an allegation or incident of resident abuse or neglect, or misappropriation of resident property, the provider shall take immediate action to ensure the safety of each resident and security of their property.**
- The provider shall thoroughly investigate and document in writing any allegation or alleged incident of resident abuse or neglect, or misappropriation of resident property,**

including the provider's rationale for concluding the allegation or incident did or did not meet the definitions in ss. DHS 13.03(1)(a), (14), or (12).

- Within 7 calendar days from the date the provider knew or should have known about the allegation or incident, and using the web-based application provided by the department, report any allegations or incidents that meet the definition of abuse, neglect, or misappropriation of property in ss. DHS 13.03(1)(a), (14), or (12). Note: Information, guidance, and resources for reporting misconduct through the Misconduct Incident Reporting system are available at <https://www.dhs.wisconsin.gov/caregiver/complaints.htm>.

Additionally:

- All managers and resident care staff (as appropriate) will receive in-service training regarding the provider's written procedure 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.

2. Pursuant to Wis. Stat. § 50.03(5g)(b)6., WITHIN 7 DAYS of receipt of this notice, the license shall provide the legal representative and case manager (if any) for each resident with a copy of Statement of Deficiency FIW911 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 # FIW911. Therefore, pursuant to Wis. Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$1,600.00 IS IMPOSED** for the following violations described in SOD # FIW911.

<u>TAG</u>	<u>DHS Code</u>	<u>Forfeiture Amount</u>
N 158	83.12(2)(a)	\$600.00
N 396	83.36(1)(a)	\$1,000.00

Total Forfeiture Due: \$1,600.00

* 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.

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 # FIW911, **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 \$1,040.00.

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.

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", with a long horizontal flourish extending to the right.

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

Enclosure
KB/CC