Tony Evers
Governor

Kirsten L. Johnson
Secretary

**State of Wisconsin**
Department of Health Services

**DIVISION OF QUALITY ASSURANCE**

BUREAU OF ASSISTED LIVING
NORTHWESTERN REGIONAL OFFICE
610 GIBSON ST SUITE 1
EAU CLAIRE WI 54701-3687

Telephone: 715-836-4790
Fax: 608-224-5705
TTY: 711 or 800-947-3529

July 8, 2025

**ELECTRONIC MAIL**
SOD # P97M14

## NOTICE and ORDER

## NOTICE OF VIOLATION
## ORDER TO COMPLY WITH REQUIREMENTS
## ORDER TO SUBMIT A PLAN OF CORRECTION
## NOTICE OF SPECIAL ORDERS
## NOTICE OF IMPOSED FORFEITURE
## NOTICE OF RIGHT TO APPEAL
## NOTICE OF REVISIT FEE

Dale Kelm
218 22nd Ave W
Ashland, WI 54806

C/O Operator: Kelm, Dale

**Re: Birch Haven North RCAC, 0014850**
**320 Superior Avenue**
**Washburn, WI 54891**

Dear Dale Kelm:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the operator of Birch Haven North RCAC, located at 320 Superior Avenue, and sets forth appeal rights, if any. This regulatory action is taken by the Department of Health Services (Department) pursuant to Wis. Stat. § 50.034, and Wis. Admin. Code ch. DHS 89.

## NOTICE OF VIOLATION

On June 23, 2025, a complaint investigation and verification visit was concluded for Birch Haven North RCAC 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 89, or both, which set forth requirements for the administration and operation of a residential care apartment complex (RCAC). The Department is issuing Statement

of Deficiency (SOD) #P97M14 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 89, which establish the grounds for this action. SOD #P97M14 is enclosed.

## ORDER TO COMPLY WITH REQUIREMENTS

1. Pursuant to Wis. Admin. Code § DHS 89.56(3)(a), effective immediately, the operator shall comply with the requirements specified by Wis. Admin. Code ch. DHS 89 that establishes the standards for the operation of the Residential Care Apartment Complex in order to protect and promote the health, safety and welfare of the tenants.

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

*According to Wis. Admin. Code § DHS 89.56(2), you are ordered to submit a Plan of Correction via an attestation of compliance. In satisfaction of this requirement: Insert the name of the facility in the space provided on the Attestation of Correction form F-02172. Within* ***ten (10)*** *days of receipt of this NOTICE and ORDER, return the completed Attestation of Correction F-02172 to the Bureau of Assisted Living Northwestern Regional Office at DHSDQABALWRO@dhs.wisconsin.gov.*

The Department may, without notice, conduct an inspection to verify the operator's corrective action at any time after the date of compliance. Pursuant to Wis. Stat. § 50.034(10), 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 operator may request an extension for the date of compliance. The request for an extension must be submitted to the Assisted Living Regional Director, Western Regional Office, at DHSDQABALWRO@dhs.wisconsin.gov. The Regional Director will communicate to the operator a decision on the date of compliance extension.

## ORDER TO SUBMIT A PLAN OF CORRECTION

According to Wis. Stat. § 50.034(2)(e), and Wis. Admin. Code § DHS 89.56(2), you must submit a Plan of Correction (POC) with proposed completion dates. You have elected to receive SODs and provide POCs via certfied mail. Document your Plan of Correction on the original Statement of Deficiency. Within **thirty (30)** days of receipt of this NOTICE and ORDER, return the completed Statement of Deficiency to the Bureau of Assisted Living Northwestern Regional Office at 610 Gibson Street, Suite 1, Eau Claire, WI 54701-3687.

Your **PLAN OF CORRECTION** must address all of the following:

1. What corrective action and system changes will be made to ensure violations are corrected and regulatory compliance is maintained?
2. Who is responsible for monitoring for continued regulatory compliance?
3. Department Orders, if applicable. Submit documentation, if requested.
4. Date of completion for each corrective action (Violation, Order).

**Failure to submit a PLAN OF CORRECTION will result in additional enforcement action against Birch Haven North RCAC.**

## SPECIAL ORDERS

Based on the results of the Department's inspection, and monitoring visit, and pursuant to Wis. Stat. § 50.034(2)(e), **EFFECTIVE UPON RECEIPT OF THIS NOTICE and ORDER,** the Department of Health Services **HEREBY ORDERS** that **Birch Haven North RCAC:**

**1. Pursuant to Wis. Admin. Code § DHS 89.56(3)(c), the operator shall develop and implement corrective measures to ensure all facility staff protect and promote each tenant's right to live in a home that is safe, clean and well-maintained. The operator shall document the corrective actions that will be (or have been) implemented to resolve the deficiency identified in Statement of Deficiency (SOD) P97M14.**

**WITHIN 45 days of receipt of this notice, the operator shall:**
**- Provide training to all facility staff on the corrective actions taken to resolve each deficiency identified in SOD P97M14. Training will be documented in personnel records and will include the date/duration of training, and the signature/qualifications of the instructor.**

## NOTICE OF FORFEITURE*

According to Wis. Stat. § 50.034(2)(e), and Wis. Admin. Code § DHS 89.56(4), the Department of Health Services may impose a forfeiture for violations of the applicable statutory provisions or administrative rules governing RCACs. 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 there are violations of state statutes or administrative code provisions, or both, as identified in the enclosed SOD #P97M14. Therefore, pursuant to Wis. Stat. § 50.034(2)(e), and Wis. Admin. Code § DHS 89.56(4), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF $400 IS IMPOSED** for the following violations described in SOD #P97M14.

* According to Art. X, §2 of the Wisconsin Constitution and Wis. Stat. § 50.034(8)(d), all forfeitures collected by the Department are deposited in the State's School Fund.

| TAG | DHS Code | Forfeiture Amount |
|---|---|---|
| **U 116** | **89.23(2)(a)2.a** | **$400** |

**Total Forfeiture Due: $400**

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 #P97M14, **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 $260.

Please make the forfeiture payment payable to "*DHS 639*" and send it to:

QUALITY ASSURANCE ANALYST
DHS / DQA / BAL
PO BOX 2969
MADISON, WI 53701-2969

## NOTICE OF RIGHT TO APPEAL

According to Wis. Stat. § 50.034(8)(c) and Wis. Admin. Code § DHS 89.59, 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 the Division of Hearings and Appeals (DHA) within ten (10) days after receipt of this NOTICE**. Please note, according to Wis. Admin. Code § DHS 89.59(2), an appeal is filed on the date that it is received by the Division of Hearings and Appeals. Send your request for a hearing to:

RCAC APPEAL
DHA
PO 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;
- ✓ A description of the action being appealed (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. § 50.034(8)(d), if you file an appeal, then payment of any forfeiture is due within ten (10) days after you receive the final decision in the case after exhaustion of administrative review.

## NOTICE OF REVISIT FEE

According to Wis. Stat. § 50.034(10), if the Department takes enforcement action against a residential care apartment complex 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 residential care apartment complex.

On June 23, 2025, a verification visit was concluded at Birch Haven North RCAC by the Division of Quality Assurance, Bureau of Assisted Living, to determine if the violation(s) contained in Statement of Deficiency (SOD) #P97M14 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
Northwestern Regional Office
610 Gibson St., Suite 1
Eau Claire, WI 54701-3687

The revisit fee is due within ten (10) days of receipt of this Notice. Failure to submit this revisit fee will result in the issuance of a subsequent statement of deficiency with additional enforcement sanctions against Birch Haven North RCAC. There are no appeal rights for revisit fees.

* * *

If you have questions about this letter, please contact William R. Gardner, Assisted Living Regional Director, at (715) 836-4029.

Sincerely,

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

Enclosure

KB/JAJ