

Tony Evers
Governor



Kirsten L. Johnson
Secretary

State of Wisconsin
Department of Health Services

DIVISION OF QUALITY ASSURANCE

BUREAU OF ASSISTED LIVING
MADISON/SOUTHERN REGIONAL OFFICE
Room 455
PO BOX 2969
MADISON WI 53701-2969

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January 2, 2025

ELECTRONIC MAIL

SOD #YFMI11

NOTICE and ORDER

NOTICE OF VIOLATION

ORDER TO COMPLY WITH REQUIREMENTS

NOTICE OF SPECIAL ORDERS

NOTICE OF IMPOSED FORFEITURE

NOTICE OF RIGHT TO APPEAL

Mark Shaffer
2327 Clark St.
Middleton, WI 53562

C/O Licensee: Hannahs House West LLC

Re: Hearthside (The) (0018574) CBRF, Rock County
2203 Hancock Lane
Janesville, WI 53545

Dear Mark Shaffer:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the licensee of The Hearthside, located at 2203 Hancock Lane, Janesville, WI 53545, 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 09/16/2024, a standard survey and two complaint investigations were concluded for The Hearthside 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) #YFMI11 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 83, which establish the grounds for this action. SOD #YFMI11 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, Southern Regional Office, at DHSDQABALSRO@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 **Hearthside (The)**:

CONSULTANT REQUIRED

1. Pursuant to Wis. Stat. §§ 50.03(5g)(b)3. and (b)6., effective immediately, the licensee shall comply with the requirements specified by Wis. Admin. Code § DHS 83.14(2)(a) and ensure that the CBRF and its operation comply with this chapter and with all other laws governing the CBRF and its operation.

The licensee shall correct the deficiencies specified under Wis. Admin. Code § DHS 83.32(3)(k) Rights of Residents: Self Determination, identified in Statement of Deficiency (SOD) YFMI11 in consultation with a qualified professional (e.g., registered nurse, clinical social worker, health care administrator), 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 The Hearthside. In consultation with the qualified professional, the licensee will develop (or review/revise) a procedure to address:

Resident Rights

- The procedure will ensure each resident's right to be treated as an adult with dignity, respect, and individuality in a homelike environment. In the absence of a documented treatment plan, based on clinical or therapeutic indications, no restriction on a resident's freedom of choice (e.g., restricted window operations) will be arbitrarily imposed.
- Any restrictive measure will be supported by a comprehensive assessment and documented in the resident's individual service plan.
- Department written approval is obtained prior to the use of a restrictive measure.
- All staff are adequately trained to implement an approved restrictive measure.
- The use of a restrictive measure is monitored and reassessed to determine continued appropriateness and need.

All managers and resident care staff will receive in-service training regarding the written procedure required by Order #1. Training will be documented in personnel records and will include the date/duration of training, the signature/qualifications of the instructor, and evidence of successful completion of the training.

A copy of the procedure required by 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 licensee shall provide the legal representative and the case manager (if any) for each current resident with a copy of Statement of Deficiency (SOD) YFMI11 and a copy of this Notice and Order letter. The licensee shall retain evidence, acceptable to the Department, to verify compliance with Order #2. Acceptable documentation will be a signed, certified mail receipt or a verification letter or an email from the legal representative and case manager. Required evidence will be made available to the department representatives upon request.

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 #YMFI11. Therefore, pursuant to Wis. Stat. § 50.03(5g)(c), **IT IS HEREBY ORDERED** that a total **FORFEITURE OF \$2,550.00 IS IMPOSED** for the following violations described in SOD #YMFI11.

TAG	DHS CODE	FORFEITURE AMOUNT
N196	83.14(2)(a)	\$500.00
N277	83.25	\$600.00
N349	83.32(3)(e)	\$200.00
N355	83.32(3)(k)	\$500.00
N387	83.35(3)(b)	\$600.00
N499	83.45(3)	\$150.00

Total Forfeiture Due: \$2,550.00

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 #YMFI11, **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 \$1,657.50.

* 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.

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

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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 Hillary Holman, Assisted Living Regional Director, at (608) 266-8339.

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
Bureau of Assisted Living
Division of Quality Assurance

Enclosure
KB/SS