

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

Telephone: 608-264-9888  
Fax: 608-264-9889  
TTY: 711 or 800-947-3529

March 22, 2024

**ELECTRONIC MAIL**  
SOD # 178111

**NOTICE and ORDER**

**NOTICE OF VIOLATION**

**ORDER TO COMPLY WITH REQUIREMENTS**

**NOTICE OF SPECIAL ORDERS**

**NOTICE OF IMPOSED FORFEITURE**

**NOTICE OF RIGHT TO APPEAL**

Milo Pinkerton  
7901 W National Ave  
West Allis, WI 53214

C/O Operator: Heritage 2 LLC

**Re:** Heritage at Deer Creek (0013469)  
3585 S. 147<sup>th</sup> St  
New Berlin, WI 53151

Dear Milo Pinkerton:

This letter is a statutory NOTICE of VIOLATION and imposed ORDER on the operator of Heritage at Deer Creek, located at 3585 S. 147<sup>th</sup> st., New Berlin, WI 53151, 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 February 13, 2024, a complaint investigation was concluded for Heritage at Deer Creek 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) #178111 for violations of Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 89, which establish the grounds for this action. SOD #178111 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 Southern Regional Office at PO Box 2969, Madison, WI 53701-2969.*

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, Southern Regional Office, at DHSDQABALSRO@dhs.wisconsin.gov. The Regional Director will communicate to the operator a decision on the date of compliance extension.

### **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 **Heritage at Deer Creek**:

1. . Pursuant to Wis. Admin. Code §§ DHS 89.56(3)(a) and (3)(c), effective immediately, the operator will comply with the requirements specified by Wis. Admin. Code § DHS 89.23(2)(c), and ensure each tenant's health and safety are protected in the event of an emergency. The operator's corrective measures, at a minimum, shall include the development (or review) of a written emergency plan. Additionally, the operator will:
  - Obtain training for all managers and caregivers on the facility's written emergency plan. In part, the emergency plan shall describe staff responsibilities and procedures to be followed in the event of an emergency evacuation, sudden serious illness or accident.

- **Training will be documented in personnel records and will include the date/duration of training, the signature/qualifications of the instructor, and an outline of course content.**

**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 #178111. 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 \$900.00 IS IMPOSED** for the following violations described in SOD #178111. Some of the forfeitures may accrue daily until compliance is achieved and verified for that cited violation.

<b>TAG</b>	<b>DHS CODE</b>	<b>AMOUNT(\$)</b>
<b>U122</b>	<b>89.23(2)(c )</b>	<b>\$900.00</b>

**Total Forfeiture Due: \$900.00**

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 #178111, **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 \$585.00.

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

ENFORCEMENT SPECIALIST

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\* 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.

Heritage at Deer Creek

March 22, 2024

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.

\* \* \*

If you have questions about this letter, please contact Hillary Holman, Assisted Living Regional Director, at (608) 266-8339.

Sincerely,

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Heritage at Deer Creek

March 22, 2024

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/MSE