

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH) Docket No. NH 10-S0338
STATE OF ILLINOIS,)
Complainant,)
)
vs.)
)
ASTORIA PLACE LIVING & REHAB,)
Respondent,)

NOTICE OF TYPE "A" VIOLATION(S); AND ORDER TO ABATE OR ELIMINATE; NOTICE OF
CONDITIONAL LICENSE; NOTICE OF FINE ASSESSMENT;
NOTICE OF PLACEMENT ON QUARTERLY LIST OF VIOLATORS;
NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to the authority granted by the Nursing Home Care Act (210 ILCS 45/1-101) (Act),
NOTICE IS HEREBY GIVEN:

NOTICE OF TYPE "A" VIOLATION(S) AND ORDER TO ABATE OR ELIMINATE

It is the determination of the Illinois Department of Public Health, State of Illinois (Department) that there has been a substantial failure by Respondent to comply with the Act and Rules promulgated under the Act. This determination is subsequent to a Licensure Investigation conducted by the Department on October 15, 2010, at Astoria Place Living & Rehab, 6300 N. California, Chicago, Illinois. On December 9, 2010, the Department determined that such violations constitute one or more Type A violations of the Act and the Skilled Nursing and Intermediate Care Facilities Code, 77 IL. Adm. Code 300. The nature of each such violation is further described in the Statement of Violations which is attached hereto as Attachment A and made a part hereof.

The nature of each such violation is further described in the CMS 2567 which is attached hereto as Attachment A and made a part hereof.

Pursuant to Section 3-303 of the Act, the above-referenced facility is hereby ordered to abate and/or eliminate the above violation(s) immediately.

A "Type A" violation may affect your eligibility to receive or maintain a two-year license, as prescribed in Sec. 3-110 of the Nursing Home Care Act.

NOTICE OF CONDITIONAL LICENSE

In accordance with Sections 3-305 and 3-311 of the Act, the Department hereby issues a Conditional License for the operation of the Facility. This license replaces the unrestricted license issued to Astoria Place Living & Rehab on May 21, 2010. The Facility's current license number is 0050799. The term of the conditional license shall be from January 9, 2011 to July 8, 2011. It is conditioned upon the licensee's compliance with the facility's previously approved Plan of Correction hereto and incorporated herein as Attachment B. THE CONDITIONAL LICENSE SHALL BE CONSPICUOUSLY POSTED IN THE FACILITY BEGINNING ON January 9, 2011.

The Conditional License will be withdrawn and an unrestricted license will be issued to Respondent upon the expiration of the term of the Conditional License, provided Respondent substantially complies with the attached Plan of Correction.

During the term of the Conditional License, Respondent will retain its status as a certified provider of Medicaid services so long as Respondent's facility complies with the applicable federal regulations.

Failure by Respondent to substantially comply with the terms of the attached Plan of Correction may result in the revocation of the Conditional License in accordance with Sections 3-316 and 3-119 of the Act.

If the Respondent timely requests a hearing to protest the basis for the issuance of the Conditional License, the terms of the Conditional License shall be stayed pending the issuance of the Final Order at the conclusion of the hearing and the facility may operate in the same manner as with an unrestricted license. However, the Plan of Correction must be followed.

NOTICE OF FINE ASSESSMENT

Pursuant to Section 3-305 of the Act the Department hereby assesses against Respondent a monetary penalty of \$12,500.00, as follows:

-Type A violation for violating one or more of sections 300.610a), 300.695b)3) and 4), 300.1010h), 300.3240a), 300.3240b) and 300.3240e), a fine of \$12,500.00.

Section 3-310 of the Act provides that all penalties shall be paid to the Department within ten (10) days of receipt of notice of assessment by mailing a check (note Docket # on the check) made payable to the Illinois Department of Public Health to the following address:

Illinois Department of Public Health
P.O. Box 4263
Springfield, Illinois 62708

If the penalty is contested under Section 3-309, the penalty shall be paid within ten (10) days of receipt of the final decision, unless the decision is appealed and stayed by court order under Section 3-713 of the Act.

A penalty assessed under this Act shall be collected by the Department. If the person or facility against whom a penalty has been assessed does not comply with a written demand for payment within thirty (30) days, the Director shall issue an order to do any of the following:

- (A) Direct the State Treasurer to deduct the amounts otherwise due from the State for the penalty and remit that amount to the Department.
- (B) Add the amount of the penalty to the facility's licensing fee; if the licensee refuses to make the payment at the time of application for renewal of its license; the license shall not be renewed; or
- (C) Bring an action in circuit court to recover the amount of the penalty.

NOTICE OF PLACEMENT ON QUARTERLY LIST OF VIOLATORS

In accordance with Section 3-304 of the Act, the Department shall place the Facility on the Quarterly List of Violators.

NOTICE OF OPPORTUNITY FOR A HEARING

Pursuant to Sections 3-301, 3-303(e), 3-309, 3-311, 3-313, 3-315, and 3-703 of the Act, the licensee shall have a right to a hearing to contest this Notice of Type "A" Violation(s), Notice of Conditional License, and Notice of Fine Assessment. In order to obtain a hearing the licensee must send a written request for hearing no later than ten (10) days after receipt by the licensee of these Notices. The request for hearing must be sent to the Illinois Department of Public Health, Division of Long-Term Care, Quality Assurance, 525 West Jefferson Street, Fifth Floor, Springfield, Illinois 62761.

FAILURE TO REQUEST A HEARING WITHIN TEN DAYS OF RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF THE RIGHT TO SUCH HEARING.

FINE REDUCTION IF HEARING WAIVED

Pursuant to Section 3-310 of the Act, a licensee may waive its right to a hearing in exchange for a 35% reduction in the fine. Licensees wishing to exercise this right must submit a written waiver of the right to a hearing, along with a check for 65% of the fine. In addition, pursuant to Section 3-305(10) of the Act, a licensee may offset against the fine any civil money penalty paid for a federal deficiency equivalent to the violation(s) upon which the fine is based, and the combination of this offset and the waiver under Section 3-310 can be as much as 75% of the original fine. Licensees wishing to combine an offset with a waiver must submit the written waiver, proof that the civil money penalty was paid, and a check for the amount of the fine due. Waiver materials and payments must be submitted within ten (10) business days of receipt of this notice to the address above for requesting a hearing.

William A. Bell
Acting Deputy Director
Office of Health Care Regulation

Dated this _____ day of _____, 2010.

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PROOF OF SERVICE

The undersigned certifies that a true and correct copy of the attached Notice of Type A Violation(s) and Order to Abate or Eliminate; Notice of Conditional License and Conditional License; Notice of Fine Assessment; and Notice of Placement on Quarterly List of Violators; Notice of Opportunity for Hearing were sent by certified mail in a sealed envelope, postage prepaid to:

Registered Agent: Stephen N. Sher
Licensee Info: Astoria Place Living and Rehabilitation Center, LLC
Address: 5750 Old Orchard Rd, STE 420
Skokie, Illinois 60077

That said documents were deposited in the United States Post Office at Springfield, Illinois, on the _____ day of _____ 2010.

Wendy Fry