



April 18, 2018

Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs

Board of Health

RE: AB 299 and SB 388

Dear Legislative Committee:

My wife and our family own and operate Visiting Angels (www.visitingangels.com/vegas). We have served the Senior and Disabled community in the Vegas Valley since 2000 and we employ over 300 caregivers.

Regarding AB299 - Training: The State of Nevada has training conditions for our industry. These were presented to you at your recent April 12 meeting by PCAN (Personal Care Association of Nevada) representatives. I am Vice Chair of Nevada's Division of Public and Behavioral Health, Personal Care Agencies Advisory Council. We meet several times a year with Nevada's Health and Human Services, Medicaid and Aging and Disability Services staff. We have had these meetings since about 2012. They have not mentioned that there was a training problem or lack of training with our employees. This can be evidenced by reviewing their meeting minutes. Lastly, additional training requirements could lead to increased costs which would be past along to the payer. Seniors, who are on a fixed income, and Government provider's like the State of Nevada Medicaid and the VA do not want to pay more for these services.

Regarding SB 388 – Registries and Online Agencies: We proposed this legislation largely because with the growth of the internet, "out of state care" businesses are getting around our State licensing laws and putting Nevada citizens at risk. I use the term "care" because several of these businesses also take care of children. Examples of these businesses are Carelinx, Care.com, Hallmark and Kindly Care. You can find them online as well as numerous complaints from consumers and articles from local media.

They claim that the private caregiver is not their employee and they therefore, do not have to comply with State Laws. However, they are functioning a lot like an employer (maybe providing payroll services). They are also representing that the private caregiver is background checked, but the background check is not anywhere near as in-depth as what is required by Nevada licensing laws. Remember a few years ago, when a local couple was murdered by their private caregiver!

No matter if they are online and out of state, they need to be governed just like online and out of state gaming. They should not be allowed to circumvent State Laws and put Nevada citizens at risk or put Nevada tax paying businesses at a disadvantage.

If you have questions, I can be reached at 702 407 1100 or emailed at michael@visitingangelsvegas.com

Thank you,

Michael C. DiAsio,

President of Visiting Angels

Discussion Of Proposed Changes To NRS449 As A Result Of The Passage Of SB 388
Prepared By Steven Gleicher, Board Member of the Personal Care Association of Nevada and
Owner of Right at Home Las Vegas, a Licensed Agency to Provide Personal Care Services in the Home

March 7, 2018

I reviewed the proposed changes to Chapter 449 of NAC in preparation for the March 6 2018 public meeting held at 8:15am. During that meeting I testified that the currently proposed regulations do not accomplish what the legislation was suppose to accomplish and is not targeted properly.

Goal of Legislation

The goal of the legislation to require that anyone paid a fee to place a caregiver into the home of a client in Nevada must be held responsible for assuring that the caregiver placed in the home of a client meets all the current requirements of NRS 449 including,

- Be over the age of 18
- Be able to read, write speak and communicate effectively in English with the clients,
- Complete the training required by current regulations,
- Have background checks and fingerprinting completed,
- Obtain TB tests and physical,
- First Aid and CPR current,
- Have a valid drivers license and proof of insurance.

The Employment Agency has a license issued by HCQC so that they can monitor compliance of the employment agencies practices related to the requirements stated above as well as other requirements as stated in NRS 449. (This would be an additional license and fee the Employment Agency would need to get if it chooses to place caregivers into the homes of people, assuming it is already licensed by the Labor Commissioner.)

Issues with Proposed Regulations

The proposed regulations accomplish the above goal however, the language contained in the proposed regulations have some requirements that the Employment Agency/Caregiver will not be able to comply with due to the severing of their relationship upon hire. Also the proposed regulations do not properly address internet based companies that may be operating in Nevada but not be based in Nevada.

Discussion of Issues Surrounding Proposed Regulations

Employment Agency Definition

The use of the term Employment Agency as defined in NRS 611.020 will suffice as Employment Agency is defined broadly enough to capture any company or individual who engages in providing placement of an individual for a fee in Nevada. The Employment Agency language would seem to me, a non-attorney, to also require internet companies to comply. However, should 611.020 be expanded to specifically include wording to capture internet based companies? If you change 611.020 will that have unintended consequences to include a much wider base of non-caregiver functioning Employment Agencies? Do you

terminate someone if they do not comply. And the client/employer are under no regulations requiring training, so this is not enforceable.

So in conclusion, it would seem to me that the regulations need to be fine tuned to be more on-point with the reality of the operating situation of an Employment Agency/caregiver placement scenario. And that the regulations need to be looked at in terms of their ability to be enforced by the State against internet based companies who are operating today in the State.

Steven Gleicher
PCAN Board Member
702 531-4303

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Issues with Proposed Regulations

The proposed regulations accomplish the above goal however, the language contained in the proposed regulations have some requirements that the Employment Agency/Caregiver will not be able to comply with due to the severing of their relationship upon hire. Also, the proposed regulations do not properly address internet-based companies that may be operating in Nevada but not be based in Nevada.

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need some specific language in the regulations pointed at internet companies? As an example, NRS 449 stating that “any company paid a fee for placing a caregiver in the home of a client in Nevada, whether based in Nevada or outside Nevada but operating in the State such as an internet-based organization, must obtain licensure from the Nevada Labor Commissioner as well as HCQC.”

Internet Based Business

Further to this issue is that there are internet-based companies who are probably not licensed in the state performing this service. These companies operate in many states at a time. Examples are Carelinx, Care.com, and Kindly Care. I just began services for a new client who was previously using a caregiver through Carelinx. Carelinx is not a registered company in the Nevada Secretary of State database of businesses licensed to operate in Nevada.

Dual Licensure?

Since Employment Agencies must be licensed through the Labor Commissioner, then Employment Agencies desiring to provide caregiver placement would also need to apply to HCQC for an additional license. Does the language need to specifically state those facts? What if the Employment Agency only provides caregiver placement. Do they still need both licenses? Do the regulations need to be clear on the issue of which licenses are required? Does 449 need to reference the need for a license through the Labor Commissioner to be more complete?

Ongoing Supervision

Since an Employment Agency usually collects a fee upfront, once the caregiver is accepted by the client the Employment Agency is no longer involved. There is no further oversight, no employment or independent contractor connection between the caregiver and the employment agency. There is no follow up on a plan of care, no ongoing continuing education, no supervision by the employment agency. Once the fee is paid by the client to the employment agency, the caregiver becomes the employee or independent contractor of the client. That is why the upfront screening is so important, as there is no ongoing supervision. And that is why some of the proposed language around continuing supervision and training is not appropriate and is discussed more below.

Specific Language

So, to get to specifics of the proposed Regulations, Sec 4. 2.c discussed oversight and direction “... to ensure that the clients of the agency receive needed services.” This will not occur other than at the initial placement, because of the situation described above. So not sure the language is appropriate.

Sec 4.2.c There is no oversight. Perhaps make a statement as follows: “Provide initial assessment of client and insure that caregiver is able to provide for the needs of the client.”

Sec 4.2.d also assumes continued oversight, that does not exist. The Employment Agency is paid a fee and then is not involved anymore. The regulations probably do not need this paragraph.

Sec 5. 6 discusses 8 hours of continuing education. Again, no relationship exists between the caregiver and the Employment Agency after the hiring process is complete. I suppose you could still require the Employment Agency to reach out to caregiver and train them, but there is no employment leverage to terminate someone if they do not comply. And the client/employer are under no regulations requiring training, so this is not enforceable.

So, in conclusion, it would seem to me that the regulations need to be fine tuned to be more on-point with the reality of the operating situation of an Employment Agency/caregiver placement scenario. And that the regulations need to be looked at in terms of their ability to be enforced by the State against internet-based companies who are operating today in the State and probably not licensed.

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