

STATE OF NEVADA

BRIAN SANDOVAL  
Governor

RICHARD WHITLEY, MS  
Director



CODY PHINNEY  
Administrator

TRACEY D. GREEN, MD  
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE  
4220 S. Maryland Parkway, Suite 810, Bldg. D, Las Vegas, NV 89119  
Telephone: 702-486-6515, Fax: 702-486-6520  
www.health.nv.gov

<Client Name>  
<Address>  
<City, State, zip>

**Unlicensed Personal Care Agency Notification**

Dear Mr./Mrs. <>:

This letter serves to inform you that <name of agency> has been found to be operating without a license. The Division of Public and Behavioral Health received information concerning the operation of an unlicensed Personal Care Agency (PCA) at < address >. Specifically, it was determined on < date> that personal care attendants were placed in the homes of clients, fees collected from clients and caregivers paid by the agency. The agency received a Cease Operations Letter on < date > and is required to provide information as to where the care of clients have been transferred to. Your contact information was provided by the agency.

Nevada Revised Statutes (NRS) 449.0021 defines an "agency to provide personal care services in the home" as follows:

1. "Agency to provide personal care services in the home" means any person, other than a natural person, which provides in the home, through its employees or by contractual arrangement with other persons, nonmedical services related to personal care to elderly persons or persons with disabilities to assist those persons with activities of daily living, including, without limitation:

- (a) The elimination of wastes from the body;
- (b) Dressing and undressing;
- (c) Bathing;
- (d) Grooming;
- (e) The preparation and eating of meals;
- (f) Laundry;
- (g) Shopping;
- (h) Cleaning;
- (i) Transportation; and
- (j) Any other minor needs related to the maintenance of personal hygiene.

2. The term does not include:

(a) An independent contractor who provides nonmedical services specified by subsection 1 without the assistance of employees;

(b) An organized group of persons composed of the family or friends of a person needing personal care services that employs or contracts with persons to provide services specified by subsection 1 for the person if:

(1) The organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and

(2) The personal care services are provided to only one person or one family who resides in the same residence; or

(c) An intermediary service organization.

3. As used in this section, “intermediary service organization” has the meaning ascribed to it in [NRS 427A.0291](#).

NRS 449.220 authorizes the Division of Public and Behavioral Health to bring action in the name of the State to enjoin any person or agency from operating a PCA without first obtaining a license from the Bureau of Health Care Quality and Compliance.

If you choose to continue to receive services from this provider, please be advised you do not have protections under the law provided to those receiving services from a licensed agency. To view a list of licensed agencies, please visit our website at [www.health.nv.gov](http://www.health.nv.gov).

Should you have any questions regarding this matter, you may contact our office at (702) 486-6515.

Sincerely,

Surveyor, Title

For Kyle Devine, Bureau Chief

STATE OF NEVADA

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*Governor*

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Certified Mail #:

{DATE}

{NAME OF OPERATOR}  
{FACILITY ADDRESS}

**OFFICIAL ORDER TO CEASE OPERATION WITHOUT A LICENSE**

The Division of Public and Behavioral Health received information concerning the operation of an unlicensed Personal Care Agency (PCA) at <AGENCY ADDRESS>. Specifically, it was determined on <DATE> that personal care attendants were placed in the homes of clients to provide care in activities of daily living and fees were collected from clients and caregivers paid by the agency.

Nevada Revised Statutes (NRS) 449.0021 defines an "agency to provide personal care services in the home" as follows:

1. "Agency to provide personal care services in the home" means any person, other than a natural person, which provides in the home, through its employees or by contractual arrangement with other persons, nonmedical services related to personal care to elderly persons or persons with disabilities to assist those persons with activities of daily living, including, without limitation:

- (a) The elimination of wastes from the body;
- (b) Dressing and undressing;
- (c) Bathing;
- (d) Grooming;
- (e) The preparation and eating of meals;
- (f) Laundry;
- (g) Shopping;
- (h) Cleaning;
- (i) Transportation; and
- (j) Any other minor needs related to the maintenance of personal hygiene.

2. The term does not include:

(a) An independent contractor who provides nonmedical services specified by subsection 1 without the assistance of employees;

(b) An organized group of persons composed of the family or friends of a person needing personal care services that employs or contracts with persons to provide services specified by subsection 1 for the person if:

(1) The organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and

(2) The personal care services are provided to only one person or one family who resides in the same residence; or

(c) An intermediary service organization.

3. As used in this section, "intermediary service organization" has the meaning ascribed to it in NRS 427A.0291.

Nevada Revised Statutes (NRS) 449.030 prohibits the operation of a personal care agency without first obtaining a license from the Division of Public and Behavioral Health. Pursuant Assembly Bill (AB) 222, if you operate an unlicensed personal care agency, you are liable for a civil penalty of \$10,000 for a first offense, \$25,000 for a second offense and \$50,000 for a third offense. You will receive the civil penalty in a separate notice.

In addition, you will be prohibited from applying for licensure for six months if this is your first offense, one year for a second offense and if this is your third offense, you are prohibited from applying for licensure. Furthermore, you are ordered to cease providing care immediately and transfer client(s) to a licensed agencies or appropriate party to provide the care at your own expense within 10 days of this notice. You must also notify the Division of the following information:

- a) the name of the client,
- b) the name, address and phone number of the legal guardian or family member,
- c) the name, address and phone number of the agency or appropriate party to which the client is being transferred,
- d) documentation of personal belongings and finances to be transferred with the client, and
- e) copies of notification to the client's family or representative.

If you fail to comply with this notice and discharge your residents within 10 days, the Division of Public and Behavioral Health will refer this complaint to the local district attorney or attorney general of the state of Nevada for further legal action.

Should you have any questions regarding this matter, you may contact {SURVEYOR NAME} at 702-486-6515.

Sincerely,

{SURVEYOR NAME, TITLE}

For: Kyle Devine, Bureau Chief

Cc: Linda Anderson, Deputy Attorney General

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Certified Mail # or HAND DELIVERY

<DATE>

<Owner/Operator>  
<FACILITY>  
<ADDRESS>  
<ADDRESS>

**NOTICE OF INTENT TO IMPOSE A CIVIL PENALTY**

Dear <Operator>:

YOU ARE HEREBY NOTIFIED that the DIVISION OF PUBLIC AND BEHAVIORAL HEALTH intends to impose a civil penalty effective eleven working days after your receipt of this notice.

**Statutory Authority**

The Division of Public and Behavioral Health is imposing a civil penalty in accordance with Nevada Revised Statutes (NRS) 449.0308. NRS 449.0308 authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to charge and collect from medical facilities and facilities for the dependent and persons who operate such facilities without a license the actual costs incurred by the Division to enforce the provisions governing licensure and operation of such facilities, including to conduct investigations and inspections of the facilities.

The Division of Public and Behavioral Health is imposing a civil penalty in accordance with Assembly Bill (AB) 222. AB222 authorizes the Division to impose a civil penalty on the operator of an unlicensed personal care agency \$10,000 for the first offense, \$25,000 for the second offense and \$50,000 for the third offense.

**Facts Supporting the Penalty**

The Division of Public and Behavioral Health received information concerning the operation of an unlicensed Personal Care Agency (PCA) at <AGENCY ADDRESS>. Specifically, it was determined on <DATE> that personal care attendants were placed in the homes of clients to provide care in activities of daily living and fees were collected from clients and caregivers paid by the agency.

(Description of services for each client).

For a <first – second – third> offense of operating an unlicensed residential facility for groups, NRS 449.210 authorizes the Division of Public and Behavioral Health to impose a civil penalty of <\$10,000 - \$25,000 - \$50,000).

**Notice of Right to Appeal**

Nevada Revised Statutes 449.210 affords the facility the right to contest the action of the Division of Public and Behavioral Health. If you wish to oppose this action, you must send a written appeal to Cody Phinney, Division of Public and Behavioral Health Administrator, 4150 Technology Way, Suite 300, Carson City, Nevada 89706. You can fax your written appeal to (775) 684-4211.

In order for you to receive a hearing, the Administrator must receive this written appeal by 5:00 PM on the 10<sup>th</sup> working day after you have received this notice. The local Division office cannot accept your appeal. Your written appeal must include the following information: a) the action to be contested, b) the name of the division officer or employee who signed this notice, c) the reasons that the appellant believes the action is incorrect, and d) whether or not the appellant is seeking an informal internal resolution prior to the formal appeal process.

You are entitled to be represented by counsel at your own expense in these proceedings. If you retain an attorney, your counsel must notify the Administrator of his or her representation of you.

**Effective Date of Penalty**

If you submit a timely request for appeal, the effective date of the action will be stayed, pending the hearing on appeal. If you do not request a hearing within the next ten working days, you will waive your rights to a hearing and the action will be imposed as of the 11<sup>th</sup> working day after you receive this notice. NAC 439.348 indicates that except as otherwise provided in NAC 449.99908 the effective date of the disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal.

**Payments**

Payments for monetary penalties must be made to the Division of Public and Behavioral Health at 727 Fairview Dr, Suite E Carson City, Nevada 89701.

Should you have any questions regarding this matter, you may contact the supervisor listed below at 702-486-6515.

Sincerely,

{Supervisor Name, Title}  
For Kyle Divine, Bureau Chief

Cc: Linda Anderson, Deputy Attorney General