JIM GIBBONS
Governor

MICHAEL J. WILLDEN
Director

COPY

RICHARD WHITLEY, M.S.
Administrator

TRACEY D. GREEN, M.D.
State Health Officer

STATE OF NEVADA

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH DIVISION

BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

☑ Health Facilities/Lab Services
1550 College Parkway
Suite 158
Carson City, Nevada 89706
(775) 687-4475
Fax: (775) 687-6588

☐ Health Facilities/Lab Services
4220 S. Maryland Parkway
Suite 810, Building D
Las Vegas, Nevada 89119
(702) 486-6515
Fax: (702) 486-6520

☐ Radiological Health
4150 Technology Way
Suite 300
Carson City, Nevada 89706
(775) 687-7550
Fax: (775) 687-7552

☐ Radiological Health
2080 E. Flamingo
Suite 319
Las Vegas, Nevada 89119
(702) 486-5280
Fax: (702) 486-5024

NOTICE OF INTENT TO IMPOSE SANCTIONS

RECEIVED
NOV 4 2009
Bureau of Licensure and Certification
Carson City, Nevada

Certified Mail #: 7008 1140 0002 8725 8458

November 2, 2009

Emilia DeCastro, Administrator
Garden of Eden Home Care
4509 Lilliput Lane
Las Vegas, NV 89102

YOU ARE HEREBY NOTIFIED that the HEALTH DIVISION intends to impose sanctions effective eleven working days after your receipt of this notice.

Statutory or Regulatory Authority

The Health Division is imposing sanctions on your facility in accordance with Nevada Revised Statutes (NRS) 449.163 through 449.170 and Nevada Administrative Code (NAC) 449.9982 through 449.99939. The imposition of sanctions is based on the severity and the scope of the deficiency as defined by NAC 449.99861 and NAC 449.9986. The severity and scope scores assigned to the deficiencies are provided in Attachment A.

Monetary Penalties

NAC 449.99895 authorizes the Bureau of Health Care Quality and Compliance to impose monetary penalties. The Bureau is imposing monetary penalties of $300 assessed for each repeat deficiency at TAG Y050, Y072, Y103, Y991, Y992 and Y999 also cited in surveys dated October 16, 2008, May 15, 2009 and May 28, 2009. NAC 449.99902(2) requires that, for each repeat deficiency present within 18 months after an initial deficiency, the monetary penalty must be computed at the rate of one and one-half times the rate that was or could have been assessed initially for a deficiency of that severity and scope. No daily penalty will be imposed at this time.

Total of Monetary Penalties = $1800

NAC 449.99904 indicates the requirements for reduction of the penalty.
NAC 449.99908 indicates the time allowed for the payment of the penalty.
NAC 449.99911 indicates the possible consequences for failure to pay the penalty.

Facts Supporting the Sanction

The Bureau conducted a survey at Garden of Eden Home Care on September 3, 2009. The specific factual findings that serve as the basis of the underlying deficiencies are set forth in the Statement of Deficiencies (SOD) in Attachment A.

Other Circumstances Considered

As a result of the survey, the facility received a grade of D and is required under NAC 449.27706 to submit a grading system re-survey application with a $500 fee. The facility has submitted the required application and fee.

Notice of Right to Appeal

Nevada Revised Statutes 449.170(2) affords the facility the right to contest the action of the Health Division. If you wish to oppose this action, you must send a written appeal to Richard Whitley, MS, Health Division 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 10th working day after you have received this notice. The local Bureau 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 Sanction

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 11th 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. NAC 449.99908 indicates that initial monetary penalty assessment payments are due within 15 days after the notice of the penalty and must be paid irrespective of any administrative appeal.

Reduction of Monetary Penalties

If you waive your right to hearing, correct the deficiencies and pay the fines within 15 days of this notice, your penalty will be reduced by 25% pursuant to NAC 449.99904.

Payments

Payments for monetary penalties must be made to the Bureau of Health Care Quality and Compliance at 1550 E. College Parkway, Ste. 158, Carson City, NV 89706.

Other Notifications

The Bureau must upload information about sanctions applied to medical facilities to the National Practitioners Databank within 30 days of providing the sanction notice to the facility.

If you have any questions about this notice or the contents therein, please call the supervisor indicated below at (775) 687-4475.

Sincerely,

Patricia Chambers, RN, Health Facilities Surveyor III
For Marla L. McDade Williams, MPA, Bureau Chief

Attachments: SOD – Attachment A