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Governor

MICHAEL J. WILLDEN
Director



RICHARD WHITLEY, MS
Administrator

Tracey Green, MD
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 E. 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, NV 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 AND ORDER OF BAN ON
ADMISSIONS**

HAND DELIVERY

February 16, 2010

Joy Borbon, Administrator
Best Care Facility 1
720 South 9th Street
Las Vegas, NV 89101
NVS82AGC

YOU ARE HEREBY NOTIFIED that the HEALTH DIVISION orders a ban on all new admissions effective immediately. The HEALTH DIVISION finds that the public health, safety or welfare requires this emergency action of a ban on admissions at this facility.

YOU ARE ALSO HEREBY NOTIFIED that the HEALTH DIVISION intends to impose monetary sanctions and a directed plan of correction effective eleven working days after your receipt of this notice.

Immediately upon receipt of this notice, Best Care Facility 1 must ban all new admissions to safeguard the health, safety and well-being of recipients receiving services regardless of payment source and to prevent the admissions of person who cannot adequately be served by the facility. This ban must be imposed for not less than 72 hours and must be terminated if the facility demonstrates that substantial improvements have been made to correct deficiencies and that the health safety and well-being of recipients are adequately safeguarded.

Nevada Administrative Code (NAC) 449.99883 requires Best Care Facility 1 to post a notice of the ban on admissions at all public entrances to the facility within 48 hours of receipt of this notice. The notice must be not less than 15 inches by 20 inches in size and include the words "NOTICE OF BAN OF ADMISSIONS" printed in boldface type not less than 1 and ½ inches in size; a statement identifying a member of staff of the facility who will provide additional information relating to the ban on admissions; and the number of the Bureau of Health Care Quality and Compliance. Failure to post or removal of the notice is a deficiency with a severity level of three and a scope level of three.

As required by NAC 449.99883, Best Care Facility 1 must advise any person contacting the facility in writing, by telephone or any other means of telecommunication about the ban on admissions. Failure to notify any person seeking services of the ban on admissions is a deficiency of severity level two and a scope level of three.

Statutory or Regulatory Authority

The Health Division is imposing sanctions on your facility in accordance with Nevada Revised Statutes (NRS) 449.160(1)(a), (c), (d), NRS 449.163 through 449.170, Nevada Administrative Code (NAC) 449.0118(1), and NAC 449.9982 through 449.99939. Specifically, NAC 449.99881(3) authorizes the Health Division to impose a ban on admission for deficiencies of a severity level of three and a scope level of three. 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 the attachments.

Monetary Penalties

NAC 449.99895 authorizes the Bureau of Health Care Quality and Compliance (BHCQC) to impose monetary penalties and the Bureau will impose daily penalties in the future if subsequent re-surveys do not find that deficiencies have been corrected.

The Bureau is imposing monetary penalties of \$300 assessed for each repeat deficiency at TAG Y105, Y176, Y178, Y180 and Y936 also cited in the surveys dated 2/18/09. 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.

The Bureau is imposing initial penalties of \$800 assessed for each deficiency at TAG Y050, Y178, Y255 and Y393. NAC 449.99899(3) indicates for initial deficiencies with a severity level of three and a scope level of three an initial monetary penalty of \$800 per deficiency must be imposed.

The Bureau is imposing initial penalties of \$400 assessed for the deficiencies at TAG Y072. NAC 449.99899(4) indicates for initial deficiencies with a severity level of three and a scope level of two or less, an initial monetary penalty of \$400 per deficiency must be imposed.

Total of Monetary Penalties = \$5100

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 Sanctions

An annual State Licensure survey was conducted on 2/2/10 and the facility received the grade of D. This survey revealed 30 violations of state regulations involving issues with medication administration, criminal background checks, general facility-wide sanitation issues, safety issues, an on-going cockroach infestation, lack of a functioning auditory alarm system, care issues concerning a resident with a colostomy, medication administration, and tuberculosis testing. Eight of the deficiencies were repeated violations from previous surveys. An Immediate Jeopardy situation was declared involving missing resident medications.

The deficiencies identified during the above mentioned visits are documented in the attached statement of deficiencies. It has been determined that residents are not safe at this facility due to chronic, repeated non-compliance and that the facility is engaging in practices detrimental to the health and safety of the residents.

Other Circumstances Considered

An annual State Licensure survey was conducted on 2/28/07. This survey revealed 15 violations of state regulations regarding criminal background checks, sanitation issues, tuberculosis testing, non-functioning smoke detectors and medication administration. The facility underwent another annual State Licensure survey on 5/30/08 and this survey revealed 10 violations of state regulations regarding a cockroach infestation, non-functioning smoke detectors, unsanitary kitchen conditions, general facility-wide sanitation issues, criminal background checks and medication administration. On 2/18/09, the facility underwent another annual State Licensure survey and this survey revealed 18 violations of state regulations regarding the same issues discovered during the two previous annual State Licensure surveys and the facility was sanctioned \$600 for its repeated deficiencies. The facility received a grade of D. The facility indicated on its 2/18/09 Plan of Correction that all deficiencies had been corrected. A mandatory grading system re-survey was conducted from 4/9/09 to 8/25/09 and the facility received a grade of A during the re-survey.

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 of Health Care Quality and Compliance 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

The monetary sanction is effective 11 days after receipt of the notice. The ban on admissions is effective immediately. The effective date of the action will be stayed, pending the hearing on appeal if you submit a timely request for appeal.

In order for the ban on admissions to be removed from the facility; the facility must:

1. Develop a plan which addresses the cause of the problems, and implement the plan.
2. Provide the Health Division with an acceptable Plan of Correction.
3. Receive a resurvey and at the time of the resurvey be in compliance with the regulations for which the ban was imposed.
4. Receive notice from the Health Division that the ban has been removed.

Other Notifications

The Bureau must upload information about sanctions applied to medical facilities to the Healthcare Integrity and Protection Data Bank (HIPDB) within 30 days of providing the sanction notice to the facility.

If you have any questions, please call the supervisor listed below at 775-687-4475.

Patricia Chambers, RN, HFS III
For Marla McDade Williams, MPA, Bureau Chief

Cc: Richard Whitley, Administrator
Marla McDade Williams, Deputy Administrator

Enclosures: Statement of Deficiencies dated 2/2/10