

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2011 DEC 21 A 10:49

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

DOAH NOs.: 11-4344
11-4545
11-3384

Petitioner,

v.

AHCA NOs.: 2011004274
2011004026
2011006078

GUARDIAN ANGEL ADULT CARE
SERVICES, LLC d/b/a GUARDIAN ANGEL
ADULT CARE SERVICES

RENDITION NO.: AHCA-11- 1360 -S-OLC

Respondent.

FINAL ORDER

Having reviewed all matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency has jurisdiction over the above-named Respondent pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached two Notices of Intent (Case Nos. 2011004026 & 2011006078) and an Administrative Complaint (Case No. 2011004274), each with an Election of Rights form to the Respondent (Ex. 1, 2 & 3 respectively). The Election of Rights forms advised of the right to administrative hearings.
3. The parties herein entered into the attached Settlement Agreement (Ex. 4).

Based upon the foregoing, it is **ORDERED**:

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order. The parties shall comply with the terms of the Settlement Agreement.
2. The Respondent's application for relicensure to operate as a homemaker and companion service is hereby denied.
3. The Respondent's application for a nurse registry license is hereby denied.
4. The Respondent shall pay the Agency \$6,000.00. The first two thousand five hundred (\$2,500.00) shall be due and payable within thirty (30) days of the date of the Final Order; the remainder shall be due on or before May 30, 2012. If full payment has been made, the cancelled checks act as

receipts of payment and no further payment is required. Overdue amounts are subject to statutory interest and may be referred to collections. All checks shall contain all three ten-digit AHCA case numbers, shall be made payable to the "Agency for Health Care Administration" and be shall be sent to:

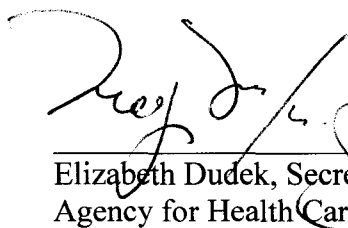
Office of Finance and Accounting
Revenue Management Unit
Agency for Health Care Administration
2727 Mahan Drive, MS 14
Tallahassee, Florida 32308

5. The Respondent is responsible for any refunds that may be due to any clients.

6. The Respondent is responsible for retaining and appropriately distributing client records as prescribed by Florida law. The Respondent is advised of Section 408.810, Florida Statutes. The Respondent should also consult the applicable authorizing statutes and administrative code provisions as well as any other statute that may apply to health care practitioners regarding client records.

7. The Respondent is given notice of Florida law regarding unlicensed activity and advised of Section 408.804 and Section 408.812, Florida Statutes. The Respondent should also consult the applicable authorizing statutes and administrative code provisions. The Respondent is notified that the cancellation of an Agency license may have ramifications potentially affecting accrediting, third party billing including but not limited to the Florida Medicaid program, and private contracts.

ORDERED at Tallahassee, Florida, on this 21 day of December, 2011.



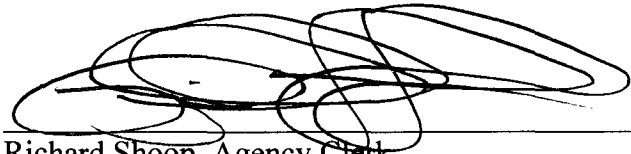
Elizabeth Dudek, Secretary
Agency for Health Care Administration

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, which shall be instituted by filing one copy of a notice of appeal with the Agency Clerk of AHCA, and a second copy, along with filing fee as prescribed by law, with the District Court of Appeal in the appellate district where the Agency maintains its headquarters or where a party resides. Review of proceedings shall be conducted in accordance with the Florida appellate rules. The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 21st day of December, 2011.



Richard Shoop, Agency Clerk
 Agency for Health Care Administration
 2727 Mahan Drive, Bldg. #3, Mail Stop #3
 Tallahassee, Florida 32308-5403
 Telephone: (850) 412-3630

Copies:

Jan Mills Facilities Intake Unit (Electronic Mail)	Finance & Accounting Revenue Management Unit (Electronic Mail)
Nicole Stone Guardian Angel Adult Care Services, LLC 1899 Murrell Road, Ste. 100 Rockledge, FL 32955 (U.S. Mail)	Bernadine Stone Guardian Angel Adult Care Services, LLC 1899 Murrell Road, Ste. 100 Rockledge, FL 32955 (U.S. Mail)
Suzanne Suarez Hurley, Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	George Indest, Esquire The Health Law Firm 1101 Douglas Avenue Altamonte Springs, FL 32714 (U.S. Mail)
Shawn McCauley Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Katrina Derico-Harris Medicaid Accounts Receivable Agency for Health Care Administration (Electronic Mail)
Anne Menard, Unit Manager Home Care Unit Agency for Health Care Administration (Electronic Mail)	J. D. C. Newton, II Administrative Law Judge Division of Administrative Hearings (Electronic Mail)
Theresa DeCanio, Field Office Manager Area 7 – Orlando Agency for Health Care Administration (Electronic Mail)	J. D. Parrish Administrative Law Judge Division of Administrative Hearings (Electronic Mail)

NOTICE OF FLORIDA LAW

408.804 License required; display.--

- (1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.
- (2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.812 Unlicensed activity.--

- (1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.
- (2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.
- (3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.
- (4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance.
- (5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.
- (6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person

or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.



Certified Article Number
7196 9008 9111 0976 8947
SENDER'S RECORD

RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

April 18, 2011

2011 APR 19 P 12: 24

CERTIFIED MAIL

RECEIVED
GUARDIAN ANGEL ADULT HOME CARE AHCA
SERVICES LLC GENERAL COUNSEL
550 LEE AVE
SATELLITE BEACH, FL 32937

FILE #: 39963777
CASE #: 2011004026

NOTICE OF INTENT TO DENY

The Agency for Health Care Administration intends to deny the application for a renewal registration for homemaker companion services for Guardian Angel Adult Home Care Services LLC, located at 1899 Murrell Road, Suite 100, Rockledge, Florida 32955.

Guardian Angel Adult Home Care Services LLC was found to be providing services that require a nurse registry license on an April 6, 2011 complaint visit to Guardian Angel Adult Home Care Services by a surveyor from the Agency's Orlando Field Office.

1. On this visit, three of three sampled clients were found to be receiving personal care services including bathing, toileting, dressing, physical transfers, and incontinence care, as described in the violations of state law that were cited in the survey report.
2. The office was found to be advertising and offering services beyond the scope of its homemaker companion registration as follows:

Two poster boards advertised the services offered, including personal care assistance with bathing and dressing. The lettering on the poster boards was large enough to read while standing outside looking through the large picture window at the front entrance to the office.

Brochures were located in visible locations inside the front door of the office and also visible through the window. The text of the brochure stated that Guardian Angel Adult Home Care Services provides "Out-patient Assistance/Post-op Care" for "Chemotherapy/Dialysis/Surgery", "Physical Therapy/Cardiac Rehab" - "Whatever out-patient procedure you may undergo, Guardian Angel can assist you with transportation to and from your procedures, as well as provide before and after care..." This is the same brochure that was included in the previous Notice of Intent to Deny, case 2010012272. Nicole Stone, owner of Guardian Angel Adult Care

2727 Mahan Drive, MS#34
Tallahassee, Florida 32308



EXHIBIT 1
View this exhibit at
<http://ahca.myflorida.com>

April 18, 2011

Services, had submitted a statement on March 8, 2011 that she would refrain from using the brochure until legally licensed to perform personal care.

The basis for this action is pursuant to 408.815(1)(c), Florida Statutes:

“(1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license or change of ownership application include any of the following actions by a controlling interest: ...

(c) A violation of this part, authorizing statutes, or applicable rules.”

The laws violated are 408.812(1) and (2); 400.462(7), (16), (12), (14), (15), (21), (24); and 400.509(1), Florida Statutes

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.



Anne Menard, Manager
Home Care Unit
Bureau of Health Facility Regulation

Cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3
AHCA Orlando Field Office Manager

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

RE: GUARDIAN ANGEL ADULT HOME CARE SERVICES LLC

2011 MAY -2 A 9:50

CASE NO: 2011004026

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deem Incomplete and Withdraw from Further Review of the Agency for Health Care Administration (AHCA). The title may be Notice of Intent to Deem Incomplete and Withdraw from Further Review or some other notice of intended action by AHCA.

An Election of Rights must be returned by mail or by fax within 21 days of the day you receive the attached Notice of Intent to Deem Incomplete and Withdraw from Further Review or any other proposed action by AHCA.

If an Election of Rights with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: (850) 412-3630 Fax: (850) 921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) I admit to the allegations of facts and law contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other notice of intended action by AHCA and I waive my right to object and have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) I admit to the allegations of facts contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other proposed action by AHCA, but I wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) I dispute the allegations of fact contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review or other proposed action by AHCA, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing **OPTION THREE (3)**, by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Subsection 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above within **21 days** of receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.201, Florida Administrative Code, which **requires** that it contain:

1. The name and address of each agency affected and each agency's file or identification number, if known;
2. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any;
3. An explanation of how your substantial interests will be affected by the Agency's proposed action;
4. A statement of when and how you received notice of the Agency's proposed action;
5. A statement of all disputed issues of material fact. If there are none, you must state that there are none;
6. A concise statement of the ultimate facts alleged, including the specific facts you contend warrant reversal or modification of the Agency's proposed action;
7. A statement of the specific rules or statutes you claim require reversal or modification of the Agency's proposed action; and
8. A statement of the relief you are seeking, stating exactly what action you wish the Agency to take with respect to its proposed action.

(Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.)

License type: Homemaker Companion Service

License number: 229370

Licensee Name: GUARDIAN ANGEL ADULT HOME CARE SERVICES LLC

Contact person: Nicole M. Stone Managing Employee
Name Title

Address: 1899 Murrell Rd, ste. 100 Rockledge, FL 32955
Street and number City Zip Code

Telephone No. ³²¹⁻633-9730 Fax No. ³²¹⁻633-5061 Email (optional) Nicole.Stone@bellsouth.net

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: Ni m. Stone Date: 4-29-11

Print Name: Nicole M. Stone Title: Managing Employee



Certified Article Number
7196 9008 9111 0975 7637
SENDERS RECORD

RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

June 23, 2011

CERTIFIED MAIL

BERNADINE STONE
GUARDIAN ANGEL ADULT CARE SERVICES, LLC
1899 MURRELL RD, STE 100
ROCKLEDGE, FL 32955

LICENSE NUMBER:
CASE NUMBER: 2011006078

NOTICE OF INTENT TO DENY

Your application for initial license as a Nurse Registry located at 1899 Murrell Rd., Ste 100, Rockledge, FL 32955 is DENIED. The issues resulting in the decision to deny the application are outlined below:

1. The applicant was delivering services without the appropriate license. Investigations into unlicensed activity were substantiated on April 6, 2011. The applicant holds a Homemaker/Companion registration that prohibits any hands on care. However, the applicant was advertising the provision of post-operative care in their brochure and delivering personal care to clients. The personal care services they were providing were outside the scope of a homemaker and companion agency and constituted unlicensed activity. They do not have a license to provide hands on service to clients.

The pertinent statutes and rules that apply include the following:

- Chapter 408.812 (2), Florida Statutes
 - Chapter 408.815 (1), (a)-(c) Florida Statutes
2. The applicant listed Bernadine Stone as the administrator and residing at 505 McGuire Blvd, Indian Harbour Beach, FL 32937. While Ms. Stone was represented in the application as living in Florida, all other supporting documentation on Ms. Stone indicated her residence is actually 4405 Summertime Dr., Nashville, Tennessee 37207. Her State of Florida RN license # RN270869 (Exhibit 1) listed her residence in Nashville, Tennessee. This same Tennessee address was the return address on the envelope transmitting the application to the agency; (See Exhibit 2) as well as the address given on the bank statements used to show proof of funding for the operation of the agency; regarding this application for licensure. (See exhibits 3-7). In a search for Ms. Stone's Nashville Tennessee connections she was found under "LinkedIn" on the Internet as the current Manager of Operations at AmeriChoice in the Insurance Department located in the Greater Nashville Area. (See Exhibit 8).

The position of administrator in a nurse registry must be full time. Ms. Stone could not be a full time administrator and reside in Nashville, Tennessee.

The pertinent statutes and rules that apply include the following:

- Chapter 408.815 (1) (a) & (c), Florida Statutes
- Chapter 59A-18.006, (5) Florida Administrative Code

2727 Mahan Drive, MS#34
Tallahassee, Florida 32308



Visit AHCA online at
ahca.myflorida.com
EXHIBIT 2

June 24, 2011

3. The applicant listed Ms. Nicole Stone as the alternate administrator. Ms. Stone indicated on the application that she had one year of experience as a Medical Secretary at St. Thomas Hospital in Nashville, Tennessee. The Employee Service Center at the hospital was contacted to verify the experience. The response was that Ms. Stone was a Clerical Associate for just under 10 months from January 19, 2004 to October 10, 2004. (See Exhibit 9). The administrator of a nurse registry is required to name a qualified alternate administrator. The qualifications required for the alternate administrator are the same as the administrator: licensed physician, a registered nurse, or an individual with training and experience in health service administration and at least one year of supervisory or administrative experience in the health care field. Ms. Nicole Stone does not meet the required qualifications for the position.

The pertinent statutes and rules that apply include the following:

Chapter 59A-18.006 (1) &(6) Florida Administrative Code

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.



Anne Menard, Manager
Home Care Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: Guardian Angel Adult Care Services, LLC

CASE NO: 2011006078

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deem Incomplete and Withdraw from Further Review of the Agency for Health Care Administration (AHCA). The title may be Notice of Intent to Deem Incomplete and Withdraw from Further Review or some other notice of intended action by AHCA.

An Election of Rights must be returned by mail or by fax within 21 days of the day you receive the attached Notice of Intent to Deem Incomplete and Withdraw from Further Review or any other proposed action by AHCA.

If an **Election of Rights** with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this **Election of Rights** form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your **ELECTION OF RIGHTS** to:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: (850) 412-3630 Fax: (850) 921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) _____ I admit to the allegations of facts and law contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other notice of intended action by AHCA and I waive my right to object and have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) _____ I admit to the allegations of facts contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other proposed action by AHCA, but I wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review or other proposed action by AHCA, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing **OPTION THREE (3)**, by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Subsection 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above within 21 days of receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.201, Florida Administrative Code, which requires that it contain:

1. The name and address of each agency affected and each agency's file or identification number, if known;
2. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any;
3. An explanation of how your substantial interests will be affected by the Agency's proposed action;
4. A statement of when and how you received notice of the Agency's proposed action;
5. A statement of all disputed issues of material fact. If there are none, you must state that there are none;
6. A concise statement of the ultimate facts alleged, including the specific facts you contend warrant reversal or modification of the Agency's proposed action;
7. A statement of the specific rules or statutes you claim require reversal or modification of the Agency's proposed action; and
8. A statement of the relief you are seeking, stating exactly what action you wish the Agency to take with respect to its proposed action.

(Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.)

License type: Nurse Registry License number:

Licensee Name: Guardian Angel Adult Care Services, LLC

Contact person: _____
Name Title

Address: _____
Street and number City Zip Code

Telephone No. _____ Fax No. _____ Email (optional) _____

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Print Name: _____ Title: _____