



July 11, 2025

VIA ELECTRONIC MAIL

PAGAfilings@dir.ca.gov

Division of Occupational Safety and Health (Cal-OSHA)

Re: **PAGA CLAIM NOTICE**

SELENE MCKENZIE v. RAINBOW HOME CARE SERVICES, INC, MAGDA E. RODRIGUEZ; and Does 1-50, inclusive

To Whom It May Concern:

Please be advised that this law firm represents Selene McKenzie (“Plaintiff”) in claims arising from her employment with Rainbow Home Care Services, Inc; Magda E. Rodriguez and Does 1-50, inclusive (“Defendants”). Plaintiff is an “aggrieved employee” as defined by Labor Code §§ 2699, *et seq.*, due to Defendants’ violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. Unless the LWDA proceeds against Defendants, our clients intend to pursue a civil action against them pursuant to Labor Code §§ 2699, *et seq.*

We are informed and believe that Defendants violated Labor Code sections 1102.5, 6310 and 6400 based on the facts set forth below.

A. Facts Giving Rise to Violations:

Plaintiff was employed by Defendants as a caregiver from approximately November 18, 2022 until she was wrongfully terminated on or approximately on February 20, 2025.

Defendants maintained an unsafe work environment, endangering employees and the public. Specifically, required PLAINTIFF and other caregivers to administer medication to DEFENDANTS’ patients, despite PLAINTIFF and other caregivers not being licensed to administer medications. See Title 22 of the California Code of Regulations Section 76347 (“[a]ll medications shall be administered only by licensed medical or licensed nursing personnel...”)

Throughout her employment with DEFENDANTS, PLAINTIFF made workplace safety complaints with regards to DEFENDANTS instructing her and other unlicensed caregivers to administer medication to patients. PLAINTIFF also did not receive training to administer medication, and she remained concerned about the safety of DEFENDANTS’ high-risk practices and poorly organized operation.

In or around Spring 2023, PLAINTIFF was required to administer insulin to a patient via injections, and continued to be required to do so on other multiple occasions, on and off for the

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following three years. PLAINTIFF was required to determine the insulin dose by measuring blood glucose levels and determining the amount of insulin to provide to the patient.

PLAINTIFF was required to do this despite being only a caregiver. On the occasion that PLAINTIFF did not administer insulin, she would get written up.

Throughout her employment with DEFENDANTS, PLAINTIFF and other caregivers repeatedly shared their concerns about being required to administer medication without proper authorization.

But despite failing to properly supervise or train PLAINTIFF and other caregivers, DEFENDANTS continued requiring PLAINTIFF and other unlicensed caregivers to administer medication. If PLAINTIFF or other caregivers refused, DEFENDANTS would issue them write-ups for refusing to administer patients' medication.

Thus, PLAINTIFF continued to administer medication to patients under DEFENDANTS' direction for fear of losing her job.

In or around February 2025, PLAINTIFF was scheduled to provide care to a patient. One of PLAINTIFF's required duties that day was to administer the patient's medication multiple times during her scheduled shift.

During that shift, PLAINTIFF provided care for her patient in accordance with DEFENDANTS' policies. PLAINTIFF administered this patient's medication per DEFENDANTS' instructions; however, PLAINTIFF did not administer the medication scheduled at 3 P.M. prior to leaving the patient's house.

About two days afterwards, PLAINTIFF received a call from DEFENDANTS explaining their intention to issue PLAINTIFF a write-up for failing to administer the 3 P.M. medication.

Thus, DEFENDANTS issued PLAINTIFF a write-up for failing to administer medication to patients despite PLAINTIFF not having the training or authority to do so.

In addition to issuing PLAINTIFF a write-up for not administering medication to a patient as a mere caregiver, DEFENDANTS began removing PLAINTIFF from her regular patient schedules and removing PLAINTIFF's main clients from her work schedule. This was all due to PLAINTIFF's complaints to DEFENDANTS about their practices of requiring unlicensed caregivers to administer medication to patients, and of the high-risk the practice posed to PLAINTIFF and others.

As such, PLAINTIFF was constructively terminated on or around February 20, 2025.

PLAINTIFF is informed and believes, and thereupon alleges, that she was constructively terminated by DEFENDANTS in retaliation for her complaints regarding unauthorized practices and unsafe working conditions, including her complaints about DEFENDANTS' requiring

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PLAINTIFF to administer medication even though she was only a caregiver and not a licensed medical professional.

When PLAINTIFF complained about these issues or refused to violate the federal and state regulations, she was disciplined, up to and including suspension and termination.

B. Labor Code Sections Violated:

1) Labor Code § 6400 and § 6310

Labor Code section 6400 states in part, “Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein.”

Likewise, Cal. Labor Code § 6310 prohibits employers from discharging, constructively discharging, retaliating or in any manner discriminating against any employee for making any oral or written health and/or safety complaint, or complaint regarding working conditions, to a governmental agency, or their employer.

The facts giving rise to the Labor Code section 6400 and 6310 claims are the same as those set forth above. The foregoing is not intended as an exhaustive recitation of the facts or potential Labor Code Claims that Plaintiffs may have against DMS.

2) Labor Code § 1102.5

Labor Code section 1102.5 states that:

(a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.

(b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for

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providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

(c) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

(d) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for having exercised his or her rights under subdivision (a), (b), or (c) in any former employment.

The facts giving rise to the Labor Code section 1102.5 claims are the same as those set forth above. The foregoing is not intended as an exhaustive recitation of the facts or potential Labor Code Claims that Plaintiffs may have against DMS.

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Plaintiffs request that the Labor and Workforce Development Agency ("Agency") promptly review this letter and conduct a thorough investigation of all claims made in this letter. If the Agency, however, decides not to conduct an investigation, Plaintiffs further request a prompt response to that effect so that he may pursue a cause of action for recovery of the aforementioned civil penalties and attorney's fees incurred.

Pursuant to Labor Code § 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,



LOYR, APC

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