

Steve Sisolak
Governor



DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIRECTOR'S OFFICE

Helping people. It's who we are and what we do.



Richard Whitley, MS
Director

September 1, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCEsb) created by Senate Bill (SB) 340, it has been recommended that the Department of Health and Human Services (DHHS) require that a copy of the signed Know Your Rights bulletin be on file for every worker:

- (1) Before they are hired,
- (2) Within 90 days of the original notice being issued for current employees, and
- (3) Within 180 days of any revised versions of the notice being issued for current employees

It is also recommended that the State review and update the notice, if necessary, annually. If approved, this recommendation should be pursued after a Labor Commissioner is appointed and approves the document.

The motion calling for this recommendation passed by the Board during the August 23, 2022, HCEsb meeting and fulfills Section 16.2(c) of SB 340:

A The adequacy of the role of home care employees in making decisions affecting their wages and working conditions;

The realization of these recommendations would ensure workers understand the rights and privileges entitled under employment.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Cody H. Phinney".

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Know Your Rights Bulletin

Compiled by the Home Care Employment Standards Board

What Type of Worker are You?

Employee vs. Independent Contractor

- Many of the rights in this document only apply to employees and not independent contractors. It is important to understand what kind of worker you are. Ask your employer if you are not sure after reading the information below.
- Employee:
 - You receive a W2 tax form.
 - You are told by your employer where to work, how to work, what time to work, what type of equipment to use, are given a uniform, and/or are being told how to do your job.
 - You are dependent on a specific entity or person for income and wages.
 - You work under the business' agency license or direction.
- Independent Contractor:
 - You receive a 1099 tax form.
 - You are not subject to the supervision or control of the employer except as to the result of the work performed for the employer.
 - You are a self-employed person who agrees with an employer to do work for a certain fee.
 - You can work for multiple entities or people and are not tied to one employer.
 - You have a professional license.
- If you believe you may be wrongly classified as an independent contractor, contact the Office of the Labor Commissioner to request an investigation.
 - Website: https://labor.nv.gov/Contact/Contact_Us/
 - Carson City Office of the Labor Commissioner
 - 1818 College Parkway, Suite 102
Carson City, NV 89706
Phone: (775) 684-1890
Fax: (775) 687-6409
Email: mail@labor.nv.gov
 - Las Vegas Office of the Labor Commissioner
 - 3300 West Sahara Avenue, Suite 225
Las Vegas, NV 89102
Phone: (702) 486-2650
Fax: (702) 486-2660
Email: mail@labor.nv.gov

Wages & Payment

Minimum Wage

- Minimum wage with offered health benefits: \$9.50 per hour
- Minimum wage without offered health benefits: \$10.50 per hour
 - Qualified health benefits must be for the employee and the employee's dependents at a total cost to the employee for premiums that equals no more than 10% of the employee's total taxable income from the employer. Tips and gratuities do not count towards this total.

Effective Date	Lower Tier	Higher Tier
July 1, 2022	\$9.50	\$10.50
July 1, 2023	\$10.25	\$11.25
July 1, 2024	\$11.00	\$12.00

Paydays & Frequency

- Wages must be paid twice a month or more often.
- Employers must create and maintain regular paydays and post information on those regular paydays in 2 places. After establishing payday expectations, the employer cannot change a regular payday or the place of payment unless the employer gives the employee at least 7 days written notice.

Required Practices

- Employers must have records of wages for the benefit of employees. Records must show the following information for each pay period for each employee:
 - Gross wage or salary
 - Deductions agreed to in writing by the employer and employee for a specific purpose, pay period, and amount
 - Net cash wage or salary
 - Total hours employed in the pay period by noting the number of hours per day
 - Date of payment
- Employers cannot require an employee to rebate, refund or return any part of their wage, salary, or compensation.
- Employers cannot withhold or deduct any wages unless it is for the benefit of the employee and authorized in writing by the employee.
- Employers who have legal authority to decrease the wage, salary, or compensation of an employee cannot do so unless:
 - The employer gives written notice of the decrease to the employee at least 7 days before the employee performs any work at the decreased rate; or
 - The employer meets requirements relating to decreases that are part of any collective bargaining agreement or any contract between the employer and the employee.

Withdrawal of Employment (Discharge or Quit)

- When an employer discharges an employee, wages and compensation earned and unpaid at the time of discharge are due and payable immediately.
- When an employee resigns or quits, the wages and compensation earned and unpaid at the time of resignation or quitting must be paid no later than the next payday the employee would have regularly been paid or 7 days after resigning or quitting, whichever is earlier.

Overtime

- Employers must pay 1 ½ times an employee's regular wage rate whenever an employee's regular wage rate is less than 1 ½ times the minimum wage and:
 - The employee works more than 40 hours in a work week; or
 - The employee works more than 8 hours in a workday unless there is a mutual agreement that the employee works a scheduled 10 hours per day for 4 days within any scheduled workweek.
- Employers must pay 1 ½ times an employee's regular wage rate whenever an employee's regular wage rate is more than 1 ½ times the minimum wage and the employee works more than 40 hours in a work week.

Leave & Paid Time Off (PTO)

Entitlement

- Private employers with 50 or more employees must provide paid leave to each employee.
 - Employees are entitled to at least 0.01923 hours of paid leave for each hour worked.
 - Paid leave can carry over between benefit years of employment, but an employer can limit the amount of paid leave that is carried over to a maximum of 40 hours per benefit year.
 - An employer must:
 - Pay leave at the amount an employee is compensated at the time leave is taken; and
 - Pay leave compensation on the same payday as the hours taken are normally paid.

Use of Leave or PTO

- Employers must allow an employee to use paid leave beginning the 90th calendar day of their employment.
- Employees may use available paid leave without providing a reason to their employer.
- Employers, or anyone acting on behalf of or under the authority of the employer, must not:
 - Deny an employee the right to use paid leave available;
 - Require an employee to find a replacement worker to use their paid leave; or
 - Retaliate or take any negative action against an employee for using available paid leave, including, but not limited to:
 - Discharging or firing the employee;
 - Penalizing the employee; and

- Deducting paid leave from the salary or wages of the employee.
- Employers must allow an employee to use available paid leave for any use, including, but not limited to:
 - Treatment for mental or physical illness, injury, or health condition.
 - Receiving a medical diagnosis or medical care.
 - Receiving or participating in preventative care.
 - Participating in caregiving.
 - Addressing other personal needs related to the health of the employee.
- An employer:
 - Cannot require an employee to be physically present at their place of work to tell the employer that they are sick or have a non-work-related injury and cannot work.
 - Can require that an employee notify the employer that they are sick or injured and cannot report for work.
- Employers must allow employees to use available sick leave to assist a member of the immediate family of the employee who has an illness, injury, medical appointment, or other medical need.
 - “Immediate family” means:
 - The child, foster child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent of an employee; or
 - Any person for whom the employee is the legal guardian.

Other Rights Under Employment

Mileage Allowance and Reimbursement

- Employers must pay an employee for any travel or training that is considered time worked by the employee.
 - The rate of pay for travel and training may not be less than minimum wage.
- Travel by an employee:
 - Is considered to be time worked by the employee:
 - If the travel is between different work sites during a workday; or
 - If the employee is providing transportation for another employee on behalf of an employer who offers transportation for the convenience of his employees.
 - Is not considered to be time worked by the employee if the travel is between the home of the employee and the place of work of the employee regardless of whether the employee works at a fixed location or at different places of work.
- The training received by an employee:
 - Is considered to be time worked by the employee if the training is required by the employer.
 - Is not considered to be time worked by the employee if the training is required by an agency or entity other than the employer without regard to whether the training enables the employee to maintain eligibility for employment in a particular capacity or at a particular level.

- It is best practice to keep all receipts or proofs of purchase to submit with any reimbursement claims. Contact your employer for their policies and procedures regarding reimbursement for travel and training.

Costs & Materials

- All required uniforms or accessories of a distinctive style, color, or material must be provided without cost to employees by the employer. If a uniform or accessory requires a special cleaning process, and cannot be easily laundered by an employee, the employer must clean such uniform or accessory without cost to the employee.

Discrimination

- The Nevada CROWN (Creating a Respectful and Open World for Natural Hair) Act was passed in 2021, granting hair protections based on race. This includes protective hairstyles including natural hairstyles, afros, bantu knots, curls, braids, locks, and twists.
- Discrimination can be reported to the Nevada Equal Rights Commission (NERC). For more information, or to file a complaint, visit <https://detr.nv.gov/NERC>.

Right to Unionize

- Employees have the right to:
 - Self-organization
 - To form, join, or assist labor organizations
 - To bargain collectively (negotiate) through representatives of their own choosing
 - To engage in other coordinated activities for the purpose of collective bargaining or other mutual aid or protection
 - To refrain from any or all the above activities except when affected by an agreement requiring membership in a labor organization as a condition of employment

This document is a summary of existing law for informational purposes. It is not, nor should be construed as, legal advice.

For up-to-date verbatim legislation, see the links below.

Independent Contractor Information Sheet:

<https://labor.nv.gov/uploadedFiles/labornvgov/content/Employer/Independent%20Contractor%20-%20Information%20Sheet.pdf>

Required Employer Postings: https://labor.nv.gov/Employer/Employer_Posters/

National Labor Relations Act (NLRA): <https://www.nlrb.gov/guidance/key-reference-materials/national-labor-relations-act>

Nevada CROWN Act (Senate Bill 327):

<https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7961/Overview>

There are rights specific to victims of domestic violence that may be found at the link below.

Domestic Violence Victim's Bulletin:

<https://labor.nv.gov/uploadedFiles/labornvgov/content/Employer/Domestic%20Violence%20Bulletin%20June%202019.pdf>

The signatures below acknowledge receipt of the document by the worker. The employer has given the worker a copy of the Know Your Rights document, has allowed the worker to review the contents of the Know Your Rights document, and has given the worker opportunity to ask clarifying questions on the Know Your Rights document.

Date: _____

Employer Signature: _____

Worker Signature: _____

DRAFT