

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of**

**James Ellingson, CNA**

**FINAL ORDER**

**Certificate No. 200610606CNA**

**Reference No. 11-02762**

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including Certified Nursing Assistants, in the State of Oregon. James Ellingson (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This Matter was considered by the Board on June 22, 2011. Certificate Holder did not appear personally. The issue for the Board was whether to approve the Stipulation signed by Certificate Holder on May 24, 2011 and so dispense with this Matter pursuant to ORS 183.417(3).

Upon review of the Stipulation and the agency file in this Matter, the Board finds that reasonable factual and legal grounds exist to support approval of the Stipulation. It is hereby

**ORDERED** that the Stipulation signed by Certificate Holder on May 24, 2011 be approved and by this reference incorporated herein, and, it is further

**ORDERED** that Board accept the Stipulation for Probation of James Ellingson's Certified Nursing Assistant certificate and that the Stipulation for Probation be adopted.

DATED this \_\_\_\_ day of June, 2011

**FOR THE BOARD OF NURSING OF THE STATE OF OREGON**

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Patricia Markesino, RN  
Board President

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of** ) **STIPULATION FOR**  
**James Ellingson, CNA** ) **PROBATION**  
)  
**Certificate No. 200610606CNA** ) **Reference No. 11-02762**

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James Ellingson (Certificate Holder) is a Certified Nursing Assistant (CNA) in the State of Oregon. He obtained certification as a Certified Nursing Assistant on March 21, 2006.

On or about April 5, 2011, Certificate Holder submitted an application to the Oregon State Board of Nursing (Board) for renewal of his CNA certificate. On that application, Certificate Holder disclosed his arrest on July 10, 2009 for Driving Under the Influence of Intoxicants (DUII). Certificate Holder pled guilty of DUII on July 15, 2009 and was convicted. He has since completed all court requirements related to the charge.

Certificate Holder had previously been arrested for DUII in July 2003 and November 2006.

Following his July 10, 2009 arrest, Certificate Holder voluntarily entered the Union Gospel Mission Life Change Center, a faith-based residential program and long-term addiction recovery community. He participated in that program from August 4, 2009 to July 7, 2010. Since that time, Certificate Holder has been attending the Celebrate Recovery group and is very involved in that program.

On September 28, 2010, Certificate Holder was assessed by Better Choices Counseling Services in McMinnville, Oregon. After maintaining sobriety for 14 months through his faith-based programs, Certificate Holder enrolled in outpatient treatment at Better Choices to meet the requirements of the Oregon Department of Motor Vehicles. At his assessment, Certificate Holder was diagnosed with Alcohol Dependence and Methamphetamine Dependence in Remission.

Certificate Holder reported that he last used methamphetamine on August 14, 2000. He last consumed alcohol on July 10, 2009 and has maintained his sobriety since that time.

Certificate Holder successfully completed Level I outpatient treatment at Better Choices on February 3, 2011.

By the above actions, Certificate Holder is subject to discipline pursuant to violations of ORS 678.442(2)(c) and OAR 851-063-0080(3), which provide as follows:

**ORS 678.442 Certification of nursing assistants; rules.**

(2) In the manner prescribed in ORS chapter 183, the Board may revoke or suspend a

certificate issued under this section or may reprimand a nursing assistant for the following reasons:

(c) Impairment as defined in ORS 676.303.

**OAR 851-063-0080 Causes for Denial, Reprimand, Suspension, Probation or Revocation of CNA Certificate**

Under the contested case procedure in ORS 183.310 to 183.550 the Board may deny, reprimand, suspend, place on probation or revoke the certificate to perform duties as a CNA for the following causes:

- (3) Use of any controlled substance or intoxicating liquor to an extent or in a manner injurious to the certificate holder or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant.

Certificate Holder admits that the above allegations occurred and constitute violations of the Nurse Practice Act. He wishes to cooperate with the Board in resolving the present disciplinary matter. The following will be proposed to the Oregon State Board of Nursing and is agreed to by Certificate Holder:

**That James Ellingson's certificate be monitored by the Oregon State Board of Nursing from the date of signature on the Stipulation. That Certificate Holder, in his performance of duties as a Certified Nursing Assistant, will be placed on probation for a twenty-four (24) month period of time. Probation will be contingent on performing the duties at the level of a Certified Nursing Assistant. Certificate Holder must practice a minimum of eighty (80) hours each month of probation in a setting where he is able to exercise the full extent of scope of duties in order to demonstrate whether or not he is competent. Certificate Holder shall have thirty-six (36) months from Board acceptance of this Stipulation to complete probation. Any period in which Certificate Holder does not perform Certified Nursing Assistant duties in the State of Oregon will not count toward the probationary period.**

Certificate Holder must comply with the following terms and conditions of probation:

1. He shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. He shall notify the Board, in writing, prior to any change of address or employment setting during the probation period.
3. He shall maintain an active certificate.
4. He will not look for, accept, or begin a new CNA position without the approval of the Board. This includes changes of the employer itself or changes within the facility or institution.

5. He shall notify the Board of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
6. He shall present himself, in person, to designated Board staff for interviews on a monthly basis during the probationary period. Frequency of contact may be reviewed and may be revised periodically at the discretion of Board staff. A telephone interview may be substituted for a personal interview at the discretion of Board staff.
7. He shall inform current and prospective employers of the probationary status of his certificate, the reasons for his probation, and the terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Certificate Holder's probationary status.
8. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Certificate Holder is employed.
9. He shall work under the direct supervision of a licensed nurse. He shall be employed in a setting where his nursing supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) at least every three- (3) months during the probationary period. Between regular reporting periods, the Nurse Executive or comparable person, shall inform the Board of any instance of Certificate Holder's non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding Certificate Holder's work-related conduct or personal behavior that may affect his ability to perform the duties of a CNA.
10. He shall not be employed by a temporary staffing agency during the probationary period unless that agency can provide written evidence to the Board that Certificate Holder will not be assigned to multiple facilities. He shall not work in any practice setting in which on-site supervision is not available.
11. He shall participate in the Board's random urine program. He shall submit to tests to determine the presence of unauthorized substances immediately upon request by Board staff or his employer. He shall sign any release of information necessary to ensure the Board will receive the results of such testing. Failure to comply with the random urine program will result in an immediate removal from the performance of nursing assistant duties. The presence of unauthorized substances may be considered a violation of the terms and conditions of this stipulation. He will obtain a re-evaluation by a Board approved chemical dependence evaluator upon request of the probation coordinator. He understands that he will be financially responsible for the costs related to this testing and evaluation.
12. He shall abstain from the use of intoxicating, mind altering, or potentially addictive drugs, both over-the-counter and prescription drugs and alcohol during the period of probation.

13. He may take medication for a documented medical condition, provided that he obtains such medication only by a legal prescription written by a person authorized by law to write such a prescription. He will notify the Board within 72 hours in the event he is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about his medical condition. He shall produce the medical records pertaining to the medical condition and medication use.
14. He will notify any health care providers of the nature of his chemical dependence diagnosis, to ensure that his health history is complete, before receiving any treatment, including medical and dental treatment. He will provide a copy of this Stipulation to his provider. He further agrees to provide the Board with the names of his health care providers, to sign releases of information with the providers, and produce to the Board documentation of the health care provided (medical records).
15. He shall cease the performance of duties as a CNA upon the occurrence of a relapse or at the request of the probation coordinator because of relapse or relapse behavior. Performance of duties may resume when approved by the probation coordinator, in consultation with his employer.
16. He is financially responsible for any costs incurred as a result of compliance with the terms and conditions of the Stipulation.
17. He shall cooperate fully with the Board in the supervision and investigation of his compliance with the terms and conditions of this Stipulation.

Certificate Holder understands that the conduct resulting in the violations of law, described in this Stipulation, are considered by the Board to be of a grave nature and if continued, constitutes a serious danger to public health and safety.

Certificate Holder also understands that in the event he engages in future conduct resulting in violations of the law or the terms of probation the Board may take further disciplinary action against his certificate, up to and including revocation of his certificate to perform duties as a nursing assistant.

Certificate Holder understands that the Stipulation will be submitted to the Board of Nursing for approval and is subject to the Board's confirmation.

Certificate Holder understands that by entering into the stipulated agreement, he waives the right to an administrative hearing.

Certificate Holder understands that this Stipulation is a public document.

Certificate Holder states no promises, representation, duress, or coercion has been used to induce him to sign the Stipulation.

Certificate Holder has read this Stipulation, understands the Stipulation completely, and freely signs the Stipulation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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James Ellingson, CNA

FOR THE OREGON STATE BOARD OF NURSING

\_\_\_\_\_  
Marilyn Hudson RN, MSN, CNS, FRE  
Investigation Manager  
Investigation Department

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Shanon Rahimi  
Investigator  
Investigation Department