

**BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON**

In the Matter of)	
)	ORDER OF EMERGENCY
)	SUSPENSION OF NURSING
)	ASSISTANT CERTIFICATION AND
SARAH T. YOUNG, CNA, CMA)	MEDICATION AIDE CERTIFICATION
Certificate No. 000042341CNA)	
200220116CMA)	Reference No. <u>12-00565</u>
_____)	

This matter having come before the Oregon State Board of Nursing (Board) on September 21, 2011, for consideration of the entry of an Order of Emergency Suspension suspending the nursing assistant and medication aide certificates for Sarah T. Young, pending the conclusion of the Board's disciplinary proceedings in the above-captioned matter. The Board accordingly makes the following findings of fact and conclusions of law in support of its Order of Emergency Suspension:

FINDINGS OF FACT

1. The Oregon State Board of Nursing certified Sarah T. Young (Certificate Holder) as a nursing assistant in December 1998 and as a medication aide in July 2002.
2. On September 13, 2011, the Board received a complaint against Certificate Holder alleging that she had diverted narcotics from her employer, Marquis Care at Mt. Tabor. Certificate Holder worked at Marquis from July 7, 2008, through September 12, 2011.
3. In August 2011, nursing management at Marquis noted that Certificate Holder's patterns of medication administration, specifically the PRN or as needed medications was different from that of other CMAs in the facility. Certificate Holder was the only one consistently giving medications to certain facility residents. Additionally, there were medications signed out on the narcotic ledgers but not on the medication administration records. The nursing director counseled Certificate Holder at that time.
4. On September 11, 2011, nursing supervisors again noted multiple discrepancies in the narcotic records on dates Certificate Holder worked. The staff attempted to contact Certificate Holder to place her on suspension during an investigation but was unable to reach her.
5. On September 12, 2011, Certificate Holder showed up to the facility to work but was pulled aside by the nursing supervisors. When confronted, Certificate Holder admitted to the diversion. Certificate Holder stated that she had taken the drugs so that her significant other could sell them. Certificate Holder declined counseling/treatment as offered by Marquis and resigned her employment on September 12, 2011, prior to Marquis obtaining a urine drug screen.

4. A subsequent investigation at the facility concluded that over an approximate three-month period, Certificate Holder diverted 327 individual doses of narcotic medications from client PRN or as-needed supplies. The medications diverted included hydrocodone, hydromorphone and oxycodone. Certificate Holder's diversion affected thirteen facility clients.
5. There is evidence that Certificate Holder may have substituted non-narcotic analgesia for ordered narcotic medications when residents requested pain relief, keeping the narcotic preparation for herself.
6. On September 15, 2011, Board staff attempted to contact Certificate Holder regarding the allegations but was unsuccessful. Board staff sent a letter to Certificate Holder on September 15, 2011, asking her to contact the office immediately. There has been no contact from Certificate Holder.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Certificate Holder and the subject matter of this proceeding.
2. In any case where the Board finds a serious danger to the public health or safety and sets forth specific reasons for such finding, it may suspend a Certificate Holder or Licensee without hearing. ORS 183.430(2).
3. Based on the foregoing findings of fact, the Board concludes ample evidence exists that Certificate Holder diverted narcotics from her employer, falsified patient records, and improperly administered and documented pain medications. Certificate Holder has not addressed the Board's concern regarding her current fitness to perform the duties of a CNA/CMA. Certificate Holder's behavior constitutes reasonable cause to conclude that she represents a serious danger to public health, safety and welfare and is in violation of ORS 678.442 and OAR 851-063-0080 (6), and 851-063-0090 (2) (e), (g), (h), (i), and (3) (a), (b), (c), and (9) (a), and 851-063-0100 (1), (3), (5), (7), and (11).

ORS 183.430 Hearing on refusal to renew license; exceptions.

(2) In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee.

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

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:

- (6) Conduct unbecoming a nursing assistant in the performance of duties. ORS 678.442(2)

**Conduct Unbecoming a Nursing Assistant
851-063-0090**

A CNA, regardless of job location, responsibilities, or use of the title "CNA," who, in the performance of nursing related duties, may adversely affect the health, safety or welfare of the public, may be found guilty of conduct unbecoming a nursing assistant. Conduct unbecoming a nursing assistant includes but is not limited to:

- (2) Conduct related to other federal or state statutes/rule violations:
- (e) Neglecting a client. The definition of neglect includes but is not limited to unreasonably allowing a client to be in physical discomfort or be injured;
 - (g) Using the client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for services;
 - (h) Possessing, obtaining, attempting to obtain, furnishing or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; or
 - (i) Removing or attempting to remove drugs, supplies, property or money from the workplace without authorization.
- (3) Conduct related to communication:
- (a) Inaccurate recordkeeping in client or agency records;
 - (b) Incomplete recordkeeping regarding client care; including but not limited to failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given;
 - (c) Falsifying a client or agency record; including but not limited to filling in someone else's omissions, signing someone else's name, recording care not given, fabricating data/values.
- (9) Conduct related to the certificate holder's relationship with the Board:
- (a) Failing to cooperate with the Board during the course of an investigation. The duty to cooperate does not include waiver of confidentiality privileges, except if a client is harmed. This waiver of confidentiality privileges does not apply to client-attorney privilege.

**Conduct Unbecoming a Certified Medication Aide
851-063-0100**

Certified Medication Aides are subject to discipline as CNAs as described in these rules. In addition, CMAs are subject to discipline for conduct unbecoming a medication aide. Conduct unbecoming a medication aide includes but is not limited to:

- (1) Failing to administer medications as ordered by a health care professional authorized to independently diagnose and treat
- (3) Altering/falsifying medication administration record;
- (5) Diverting drugs for use by self or others;
- (7) Performing acts beyond the authorized duties for which the individual is certified;
- (11) Failing to conform to the standards and authorized duties in these rules

ORDER

IT IS HEREBY ORDERED that the nursing assistant/medication aide certificates of Sarah Theresa Young are suspended, effective immediately, and that they shall remain, suspended pending further Order of the Board.

Dated this _____ day of September 2011

FOR THE OREGON STATE BOARD OF NURSING

Patricia Markesino, RN
Board President

NOTICE OF RIGHTS TO REQUEST HEARING ON IMMEDIATE SUSPENSION

1. You have the right to contest the Board's action in immediately suspending your CNA/CMA certification by having a hearing before the Board.
2. To have a hearing, you must request one in writing within 90 days of the date this Order is mailed to you. If you request a hearing, one will be scheduled before a hearing officer to review this matter. Following a hearing, the Board will determine whether this Order should be confirmed, altered or revoked.
3. If you do not request a hearing within 90 days of the date this Order is mailed to you, you waive your right to a hearing.
4. If you request a hearing, you are entitled to appear at the hearing, to be represented by counsel, to testify and to call witnesses in your behalf.
5. Following the hearing, the Board will issue an Order containing the Board's final decision. You may appeal that Order to the Oregon Court of Appeals.