

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of)	
)	
)	FINAL ORDER
Janis K. Buehler, CNA)	
)	Case No. 11C-134
Certificate No.000024419CNA)	

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. Janis K. Buehler (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 for Reprimand signed by Certificate Holder on April 9, 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 April 9, 2011 be approved and by this reference incorporated herein, and, it is further

ORDERED that the certificate to perform the duties of a nursing assistant of Janis K. Buehler be reprimanded and that Certificate Holder shall meet all of the terms and conditions as stated in the Stipulation.

DATED this _____ day of June, 2011.

FOR THE BOARD OF NURSING OF THE STATE OF OREGON

Patricia Markesino, RN
Board President

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

In the Matter of)	
)	
Janis K. Buehler, CNA)	STIPULATION FOR REPRIMAND
Certificate No: 000024419CNA)	OF NURSING ASSISTANT CERTIFICATE
)	
)	Case No. 11C-134

Janis Buehler, hereinafter referred to as “Certificate Holder,” was certified by examination on June 8, 1993. Certificate Holder has worked primarily at nursing home facilities.

Certificate Holder came to the attention of the Board on December 29, 2010, for placing a bow on a resident’s genitalia and telling other staff, who laughed outside the resident’s room, causing him to be embarrassed. Certificate Holder violated the resident’s dignity and caused him emotional harm. Certificate Holder was terminated from the facility for this incident.

During a personal interview with Certificate Holder, she said that on December 15, 2010 she was assigned to care for RL. Certificate Holder and RL got along well and considered each other as “friends.” RL would sometimes get very angry and refused care from some of the Certified Nursing Assistant’s (CNA), so Certificate Holder was frequently assigned to him. RL wanted Certificate Holder to clean his private parts even though he was capable of cleaning himself. Certificate Holder provided care even though it was “awkward.” As she was leaving the room, she dropped a thin ribbon on his private parts and said “Merry Christmas” and walked outside the room. There were many co-workers outside RL’s room and Certificate Holder mentioned what she had done and they laughed. RL heard the laughter and reported it to the Director of Nursing Services. RL said he felt humiliated and embarrassed.

The employer reported this incident to Adult Protective Services (APS) for investigation of possible abuse. In a report issued by APS on February 1, 2011, wrongdoing was substantiated.

The above conduct is a violation of the provisions of ORS 678.442 (2) (f), OAR 851-063-0080 (6) and OAR 851-063-0090 (1) (c), (1) (e) and (2) (d) which reads as follows:

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:

(f) Conduct unbecoming a nursing assistant in the performance of duties.

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)(f)

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:

(1) Conduct related to the client's safety and integrity:

(c) Failing to respect client rights and dignity regardless of social or economic status, personal attributes or nature of health problems or disability.

(e) Engaged in sexual misconduct related to the client or to the workplace.

(2) Conduct related to other federal or state statutes/rule violations:

(d) Abusing a client. The definition of abuse includes but is not limited to intentionally causing physical harm or discomfort, striking a client, intimidating, threatening or harassing a client.

Certificate Holder wishes to cooperate with the Board in resolving the present disciplinary problems. Therefore, the following will be proposed to the Board and is agreed to by Certificate Holder:

That the Nursing Assistant Certificate of Certificate Holder be reprimanded with as follows:

Certificate Holder understands that the conduct resulting in the violations of law described in this Stipulation are considered by the Board to be serious in nature.

Certificate Holder understands that in the event she engages in future conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against her certificate, up to and including revocation of her Nursing Assistant Certificate.

Certificate Holder understands this Stipulation will be submitted to the Board of Nursing at their next meeting June 22, 2011 for approval and is subject to the Board's adoption and confirmation. Certificate Holder understands that if approved, the Board will issue a Final Order adopting this Stipulation.

Certificate Holder understands that, by entering into this Stipulation, she waives any and all rights to notice and an administrative hearing under ORS 183.310 to 183.550, and to appeal or otherwise challenge this Stipulation or the Final Order adopting it.

Certificate Holder understands that this Stipulation will become a public record at such time as the Board issues an order adopting it.

Certificate Holder states no promises, representations, duress or coercion have been used to induce her to sign this Stipulation.

Certificate Holder has fully read this Stipulation and understands it completely.

Dated this _____ day of April, 2011

Janis K. Buehler, CNA

OREGON STATE BOARD OF NURSING

Marilyn L. Hudson, RN, MSN, CNS, FRE
Compliance Manager
Compliance Department

Date

Nisha Sexton, MN, RN
Nurse Investigator
Compliance Department

Date