BEFORE THE OREGON
STATE BOARD OF NURSING

	)	
In the Matter of	)	
Lorraine M. Oakes, CNA	)	**FINAL ORDER**
	)	
	)	
Certificate No. 0000006858CNA	)	**Case No. 10C-288**

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. Lorraine M. Oakes (certificate holder) is a certified nursing assistant in the State of Oregon.

This Matter was considered by the Board on November 17, 2010. Certificate holder did not appear personally. The issue for the Board was whether to approve the Stipulation signed by certificate holder on October 3, 2010 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 October 3, 2010 be approved and by this reference incorporated herein, and it is further

ORDERED that the Board accept the Stipulation for Probation of Lorraine M. Oakes and that the Stipulation for Probation be adopted.

DATED this _____ day of November, 2010

[SIGNATURE & DATED COPY ON FILE IN BOARD OFFICE]

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Patricia Markesino, RN
Board President

BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON

In the Matter of	**)**	**STIPULATION FOR**
	)	**PROBATION**
Lorraine M. Oakes, CNA	**)**	
	)	
Certificate No.: 0000006858CNA	**)**	**Case No: 10C-288**

Lorraine M. Oakes (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon. She obtained certification through examination on January 1, 1991. Ms. Oakes is also a Certified Medication Assistant and obtained her certification through examination on February 4, 2008.

On or about June 1, 2010 the Board received a complaint indicating that Ms. Oakes had been arrested for Unlawful Possession of Methamphetamine on May 30, 2010 at her home in McMinnville, Oregon.

A check of the Oregon Judicial Information Network (OJIN) and the Law Enforcement Data Systems (LEDS) confirmed that Ms. Oakes had been arrested on May 30, 2010 by the McMinnville, Oregon Police Department for Unlawful Possession of Methamphetamine, a felony drug arrest.

The Board obtained the police report from the McMinnville police department. The report indicated that Ms. Oakes was arrested at her home after allowing the police to search her residence. The police located several pipes (of the type used to smoke methamphetamine through) along with a "snort straw" and several empty clear baggies with methamphetamine residue. Ms. Oakes live in boyfriend admitted that the majority of the drugs and drug paraphernalia belonged to him. According to the police report, Ms. Oakes admitted to the police that she used methamphetamine; however she used it very infrequently.

Ms. Oakes was interviewed by Board staff regarding this incident. Ms. Oakes took exception with the police report, however she did acknowledge that there was pipes, residue and other drug paraphernalia in her residence. Ms. Oakes advised that she used methamphetamine only about once per year and her last use was in November of 2009 and previous to that she could not remember the last time she used. At the time of her arrest, Ms. Oakes situation was also turned over to the Department of Human Services Children's Services.

Ms. Oakes, immediately after her arrest, obtained a chemical dependence assessment along with Urine Analysis (UA) tests. The UA tests all came back negative and the chemical dependence evaluation came back with a diagnosis of Alcohol and Amphetamine Abuse only, no dependence.

Ms. Oakes was allowed to attend the Yamhill County Drug Court program. This program allows persons arrested for drug offenses to complete a program through the court, and upon completion of this program the case will be dismissed with no conviction.

Ms. Oakes treatment continues, her "issues to be addressed at treatment", included the following: Drug and alcohol education, binge drinking education, mood regulation, FOO issues around addiction, boundary setting and trauma HX, relapse prevention, abstinence and disease progression information.

By the above actions, Ms. Oakes is subject to discipline pursuant to violations of ORS 678.442 (2) (c) (f) and OAR 851-063-0090 (7) (a).

ORS 678.442

(2) In the manner prescribed in ORS 183.310-183.550, the Board may revoke or suspend a certificate issued under this section or may reprimand a nursing assistant for the following reasons:

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

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

OAR 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:

(7) Conduct related to impaired function:

(a) Using intoxicants, prescription, over the counter or controlled drugs to an extent or in a manner injurious to the nursing assistant or others or to the extent that such use impairs the ability to conduct safely the duties of a nursing assistant.

Ms. Oakes admits that the above allegations occurred and constitute violation of the Nurse Practice Act. She 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 Ms. Oakes:

That Lorraine M. Oakes, be monitored by the Oregon State Board of Nursing from date of signature on the Stipulated Agreement. That Lorraine M. Oakes, in her performance of duties as a Certified Nursing Assistant and Certified Medication Assistant, will be placed on probation for a one-year period of time. Probation will be contingent on performing the duties at the level of a Certified Nursing Assistant. Ms. Oakes must practice a minimum of

80 hours each month of probation in a setting where she is able to exercise the full extent of scope of duties in order to demonstrate whether or not she is competent.

Ms. Oakes must comply with the following terms and conditions of probation:

1. She shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.

2. Probation shall be for a period of twelve (12) months. For the purposes of this Stipulation for Probation, the term "month," as used in this subsection, means a calendar month in which Ms. Oakes practices as a certified nursing assistant in Oregon a minimum of eighty (80) paid hours. Probation must be completed in thirty-six (36) months.

3. She shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.

4. She will not look for, accept, or begin a new CAN/CMA position without the approval of the Board. This includes changes of the employer itself or changes within the facility or institution.

5. She 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. She shall present herself, 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. She shall inform current and prospective employers of the probationary status of her certificate, the reasons for her probation, and terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Ms. Oakes's probationary status.

8. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Ms. Oakes is employed.

9. She shall work under the direct supervision of a licensed nurse. She shall be employed in a setting where her 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 Ms. Oakes non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding Ms. Oakes work-related conduct or personal behavior that may affect her ability to perform the duties of a CNA.

10. She shall not be employed by a temporary staffing agency during the probationary period unless that agency can provide written evidence to the Board that Ms. Oakes will not be

assigned to multiple facilities.

11. She shall participate in the Board's random urine program. 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. She understands that she will be financially responsible for the costs related to this testing.

12. She 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. She may take medication for a documented medical condition, provided that she obtains such medication only by a legal prescription written by a person authorized by law to write such a prescription. She will notify the Board within 72 hours in the event she is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about her medical condition. She shall produce the medical records pertaining to the medical condition and medication use.

14. She will notify any health care providers of the nature of her chemical dependence diagnosis, to ensure that her health history is complete, before receiving any treatment, including medical and dental treatment. She will provide a copy of this Stipulation to her provider. She further agrees to provide the Board with the names of her 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. She shall submit to tests to determine the presence of unauthorized substances, immediately upon request by the Board staff or her employer. The presence of unauthorized substances may be considered a violation of terms and conditions of this stipulation. She shall sign any release of information necessary to insure the Board will receive the results of such testing.

16. She shall cease the performance of duties as a CNA/CMA 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 her employer.

17. She is financially responsible for any costs incurred as a result of compliance with the terms and conditions of the stipulation.

18. She shall cooperate fully with the Board in the supervision and investigation of her compliance with the terms and conditions of this Stipulation.

Ms. Oakes 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.

Ms. Oakes also understands that in the event she engages in future conduct resulting in violations of the law or terms of probation the Board may make further disciplinary action against her certificate, up to and including revocation of her certificate to perform duties as a nursing assistant.

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

Ms. Oakes understands that by entering into the Stipulated Agreement, she waives the right to an administrative hearing.

Ms. Oakes states no promises, representation, duress, or coercion has been used to induce her to sign the Stipulation.

Ms. Oakes understands that this Stipulated Agreement is a public record.

Ms. Oakes has read this Stipulation, understands the Stipulation completely, and freely signs the Stipulation.

Dated this _____day of _____, 2010

[SIGNATURE & DATED COPY ON FILE IN BOARD OFFICE]

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Lorraine M. Oakes, CNA, CMA

FOR THE OREGON STATE BOARD OF NURSING

_____
Marilyn L. Hudson, RN, MSN, CNS, FRE
Investigation Manager
Investigations Department

_____
Bob Ruark
Investigator
Investigations Department