

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **AMENDED STIPULATED ORDER FOR**
Robert Kevin Ward, CNA) **PROBATION**
)
Certificate No. 000028878CNA) **Reference No. 12-02219**

The Oregon State Board of Nursing is the state agency responsible for the certification and regulation of nursing assistants. Robert Kevin Ward (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

The Board received Certificate Holder's renewal application for certification on February 9, 2010. He disclosed that he had been arrested in April of 2008 for Driving Under the Influence of Intoxicants (DUII). He was convicted of the offense. Certificate Holder has also been convicted of DUII in 1984, 1987, 1991, and 1993.

Certificate Holder was court-ordered to undergo an alcohol and drug evaluation. Certificate Holder provided the Board with the evaluation. He was evaluated on March 4, 2010 and diagnosed with Alcohol Dependence. He stated he had maintained his sobriety since his last DUII arrest in 2008.

On April 14, 2010, Certificate Holder was placed on 24 months of probation per the Board Order. He has not been able to gain employment as a Certified Nursing Assistant since beginning probation. He has been compliant with his monthly probation check-ins and participation in the random urine drug testing program.

Certificate Holder will not be able to complete his required 24 months of probation within a 3 year period. Probation is contingent on performing the duties of a Certified Nursing Assistant.

The above actions constitute violation of the terms and conditions of his Board Order and are pursuant to violations of ORS 678.442 (2) (f) and OAR 851-063-0090 (9) (d)

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:

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

OAR 851-063-0090 Conduct Unbecoming a Nursing Assistant

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:

(9) Conduct related to the Certificate Holder's relationship with the Board:

(d) Violating the terms and conditions of a Board Order.

Mr. Ward wishes to cooperate with the Board in this matter and has agreed to an Amended period of probation as specified below:

That Mr. Ward will be monitored by the Oregon State Board of Nursing as per this Amended order, for an additional 12 month period of time. This amended Probation will be contingent on performing the duties at the level of a Certified Nursing Assistant. It is granted for the purposes of attaining 4 employee quarterly reports of monitored practice in compliance with his Board Order. Certificate Holder must practice a minimum of 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 must comply with the following terms and conditions of probation:

- 1) Certificate Holder shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
- 2) Certificate Holder shall have twelve (12) months from Board acceptance of this Stipulated Order to complete probation.
- 3) Certificate Holder shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.
- 4) Certificate Holder shall maintain an active certificate.
- 5) Certificate Holder shall inform the Board in advance of any absences from Oregon and/or move from Oregon to another licensing jurisdiction. If Certificate Holder leaves the State and is unable to work in the State of Oregon, his probationary status will be re-evaluated.
- 6) Certificate Holder shall present himself, in person or by phone, to designated Board staff for interviews on a monthly basis during the probationary period. Frequency of contact may be reviewed and revised periodically at the discretion of Board staff.
- 7) Certificate Holder shall notify the Board of any citations, arrests, or convictions for any offense, whether a felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
- 8) Certificate Holder will not look for, accept, or begin a new nursing assistant position without the approval of the Board. This includes changes of the employer itself or changes within the facility or institution.
- 9) Certificate Holder shall inform current and prospective employers of the probationary status of his certificate, the reasons for his probation, and terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Certificate Holder's probationary status. The Nurse Executive will

receive copies of the Stipulation for Probation and Board Order when Applicant is employed.

- 10) Certificate Holder shall work under the direct supervision of another licensed healthcare professional, functioning at a higher level of licensure, who is working in the same physical location and readily available to observe practice and provide assistance. Certificate Holder shall be employed in a setting where his nursing supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) every three (3) months during the probationary period. The nursing supervisor must submit the quarterly evaluation within 10 days of the due date. If the evaluation is not received at such time, Board staff will contact the employer to remind them. If the Board does not receive the report within 5 business days from the time the employer is contacted, the probationer will be restricted from performing the duties of a nursing assistant.
- 11) Between regular reporting periods, the Nurse Executive or comparable person, shall inform the Board of any instance of the probationer's non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding his work-related conduct or personal behavior that may affect his ability to perform the duties of a nursing assistant.
- 12) Certificate Holder shall notify the Board when there is a change in status of employment including resignations or terminations.
- 13) Certificate Holder shall not work in any work setting in which on-site supervision is not available. This generally includes home health agencies, traveling agencies, float pools, temporary agencies, assisted living facilities, adult foster care, independent consulting contracts, home hospice, and night shifts outside of acute care settings.
- 14) Certificate Holder shall not be allowed to participate in the CNA2 training per Division 62.
- 15) Certificate Holder 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. Certificate Holder shall submit to tests to determine the presence of unauthorized substances immediately upon request by Board staff or the employer. Certificate Holder shall sign any release of information necessary to ensure the Board will receive the results of such testing. The presence of unauthorized substances may be considered a violation of the terms and conditions of this Stipulation. Certificate Holder will obtain an evaluation by a Board approved chemical dependence evaluator upon request of the probation coordinator. Certificate Holder understands that he will be financially responsible for any costs related to testing and evaluation. Failure to keep the account with the Board's lab vendor in good standing will be considered a violation of this agreement.

- 17) Certificate Holder 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. Certificate Holder shall avoid any over the counter products and food items containing alcohol and poppy seeds.
- 18) Certificate Holder 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. Certificate Holder will notify the Board within 72 hours in the event she/he is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about his medical condition. Certificate Holder shall produce the medical records pertaining to the medical condition and medication use. Certificate Holder will discard any unused prescription medications when it is no longer needed or expired.
- 19) Certificate Holder shall cease the performance of duties as a nursing assistant 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 Board staff, in consultation with the employer.
- 20) Certificate Holder 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. Certificate Holder will provide a copy of this Stipulation to the provider. Certificate Holder further agrees to provide the Board with the names of any health care providers, sign releases of information with the providers, and provide the Board with documentation of the health care provided (medical records). Certificate Holder is financially responsible for any costs incurred as a result of compliance with the terms and conditions of this stipulation.
- 21) Certificate Holder shall notify the Board at least three (3) business days prior to leaving town or going on vacation with the exception of a family emergency.
- 22) Certificate Holder 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 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 certified nursing assistant.

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

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

Certificate Holder understands that this Stipulation is a public record.

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

IT IS SO AGREED:

Robert Kevin Ward, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Kay Carnegie, RN, MS
Board President

Date