

**BEFORE THE OREGON
STATE BOARD OF NURSING**

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In the Matter of)

Rosa Cruz De Juarez, CNA) **FINAL ORDER**

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Certificate No. 000037250CNA) **Reference No. 11-02851**

The Oregon State Board of Nursing (Board) is the state agency responsible for certifying, regulating and disciplining certain health care providers, including nursing assistants, in the State of Oregon. Rosa Cruz De Juarez, CNA (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 May 23, 2011 and so dispense with this Matter pursuant to ORS 183.415(5).

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 23, 2011 be approved and by this reference incorporated herein, and it is further

ORDERED that the Board adopt the Stipulation and that the Nursing Assistant Certificate of Rosa Cruz De Juarez be reprimanded as set forth 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 OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATION FOR**
Rosa Cruz De Juarez, CNA) **REPRIMAND OF CNA**
) **CERTIFICATE**
Certificate No. 000037250CNA) **Reference No. 11-02851**

The Oregon State Board of Nursing, (Board) is the agency responsible for certifying and regulating Nursing Assistants in the State of Oregon. Rosa Cruz De Juarez (Certificate Holder) is a Certified Nursing Assistant (CNA) in the State of Oregon. The Board issued Certificate Holder a Nursing Assistant certificate by examination on April 1, 1997.

Certificate Holder was employed at Sunnyside Care Center from 2007 until she was terminated in March 2011. The decision to terminate Certificate Holder was based on alleged verbal and physical patient abuse on or about April 4, 2011. Certificate Holder was reported to the Board on April 5, 2011 for her alleged behavior.

Certificate Holder met with Board staff on May 16, 2011. She reported that on the night in question, the census was high which allowed them to staff an extra CNA, LM, to float between the first and second floors. Certificate Holder worked on the second floor. Certificate Holder reported that when she learned that LM was going to float, she was disappointed because she felt that LM was not helpful to her. Certificate Holder reported that she voiced her concern to her charge nurse, but the charge nurse informed her that LM's assistance was needed more on the first floor.

According to Certificate Holder, she worked as independently as possible on the night in question and only requested LM's assistance when necessary. She reported that throughout the shift, she became increasingly frustrated with LM, because she perceived that LM was going out of her way to avoid helping her assist the residents with high needs.

Certificate Holder explained that while she and LM were assisting a resident, RM, RM became agitated with LM. According to Certificate Holder, RM was cursing and hollering for LM to leave him alone and not touch him. Certificate Holder reported that RM was using the "F" word and that she quietly said "I just fu**ed my boyfriend." She further reported that it "just came out" and that she has no reasonable explanation as to why she said it. Certificate Holder explained that RM suffers from dementia and did not react to her comment. Although CNA acknowledged that she had cursed and that it was inappropriate, she strongly denied ever handling residents in a rough manner.

By using profanities in the presence of a resident, Certificate Holder is in violation of the provisions of ORS 678.442 (2) (f); and OAR 851-063-0080 (6); and OAR 851-063-0090 (2) (f), which reads 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:

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

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:

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

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:

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

(f) Engaging in other unacceptable behavior or verbal abuse towards or in the presence of a client such as using derogatory names or gestures or profane language.

Certificate Holder acknowledges her misconduct and wishes to cooperate with the Board in resolving the present disciplinary problems.

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

Certificate Holder understands that, by entering into this Stipulation, she waives the right to an administrative hearing under ORS 183.310 to 183.550.

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

Therefore the following will be proposed to the Board and is agreed to by Certificate Holder:

That the Nursing Assistant Certificate of Rosa Cruz De Juarez be reprimanded.

Ms. Cruz De Juarez understands that the conduct resulting in the violations of law described in this Stipulation are considered by the Board to be serious, and if continued constitutes a potential for danger to public's health, safety and well being.

Ms. Cruz De Juarez 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.

Ms. Cruz De Juarez understands this Stipulation will be submitted to the Board of Nursing at their next meeting for approval and is subject to the Board's confirmation.

Ms. Cruz De Juarez understands that by entering into the stipulated agreement, she waives the

right to an administrative hearing.

Ms. Cruz De Juarez has read this Stipulation and understands it completely.

Ms Cruz De Juarez states no promises, representations, duress or coercion have been used to induce her to sign this Stipulation.

Ms. Cruz De Juarez understands that this Stipulation will become a matter of public record at such time as the Board issues a Final Order adopting it.

Dated this _____ day of _____, 2011.

Rosa Cruz De Juarez, CNA

FOR THE OREGON STATE BOARD OF NURSING

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

Suzanne Meadows
Investigator
Investigation Department