BEFORE THE OREGON
STATE BOARD OF NURSING

In the Matter of	**) STIPULATED ORDER FOR**
Diane Bergeron, CNA	**) PROBATION**
	)
Certificate No. 200310071CNA	**) Reference No. 15-01855**

Diane Bergeron (CNA) was issued a Certified Nursing Assistant certificate by the Oregon State Board of Nursing (Board) on January 3, 2003.

On or about June 2, 2015, CNA self-reported to the Board that she went to work under the influence of alcohol. CNA left the worksite prior to performing any patient care.

CNA has a diagnosis which meets the Board's criteria for monitoring.

By the above actions, CNA is subject to discipline pursuant to ORS 678.442(2)(c)(f), 851-063-0080(3)(6), OAR 851-063-0090(7)(c), which read 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:
(c) Impairment as defined in ORS 676.303.
(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:
(3) Use of any controlled substance or intoxicating liquor to an extent or in a manner injurious to the certificate holder or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant;
(6) Conduct unbecoming a nursing assistant.

OAR 851-063-0090 Conduct Unbecoming a Nursing Assistant
A CNA, regardless of job location, responsibilities, or use of the title "CNA," whose behavior fails to conform to the legal standard and accepted standards of the nursing assistant profession, or who may adversely affect the health, safety or welfare of the public, may be found guilty of conduct unbecoming a nursing assistant. Such conduct includes but is not limited to:
(7) Conduct related to safe performance of authorized duties:
(c) Using a prescription or non-prescription drug, alcohol, or a mind-altering substance to an extent or in a manner dangerous or injurious to the nursing assistant or others, or to an extent that such use impairs the ability to perform the authorized duties safely.

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CNA admits that the above allegations occurred and constitute violations of the Nurse Practice Act. CNA 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 CNA:

CNA shall be placed on probation effective the date the Board approves this Stipulated Order for Probation. CNA's compliance with this Order will be monitored by the Oregon State Board of Nursing. CNA must complete a twenty-four (24) month period of probation to begin upon CNA's return to work, monitored as outlined below. CNA must work a minimum of sixteen (16) hours per week, and no more than a maximum of one (1.0) FTE. CNA must work in a setting where CNA can exercise the full extent of CNA's scope of duties, in order to demonstrate CNA's competence. Limited overtime may be approved on occasion, at the discretion of Board staff. Any period in which CNA does not work in the state of Oregon will not count toward the probationary period.

CNA shall comply with the following terms and conditions of probation:

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

2. CNA shall have thirty-six (36) months from Board's acceptance of this Order to complete twenty-four (24) months of monitored practice.

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

4. CNA shall maintain active certification.

5. CNA shall inform Board staff in advance of any absences from Oregon and/or any move from Oregon to another licensing jurisdiction. If CNA leaves the state and is unable to work in the state of Oregon, CNA's probationary status will be re-evaluated.

6. CNA shall appear 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. CNA shall notify Board staff of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.

8. CNA will not look for, accept, or begin a new nursing assistant position without prior approval of the Board. This includes changes of the employer itself or changes within the facility or institution.

9. CNA shall inform current and prospective employers, including any Nurse Executive, of the probationary status of CNA's certification, the reasons for probation, and terms and conditions of probation. If CNA's employer has a Nurse Executive, CNA shall

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inform Board staff of the name of the Nurse Executive and Board staff will provide the Nurse Executive with a copy this Order.

10. CNA shall work under the direct supervision of another licensed healthcare professional, functioning at the same or higher level of licensure, who is working in the same physical location and readily available to observe CNA's work and provide assistance. CNA shall be employed in a setting where CNA's nursing assistant supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) every three (3) months during the probationary period. The quarterly evaluation is expected to be received by Board staff within ten (10) days of the due date. If the evaluation is not timely received, Board staff will contact the employer with a reminder. If Board staff is not in receipt of the report within five (5) business days from the reminder date, CNA may be restricted from performing the duties of a nursing assistant.

11. Between quarterly reporting periods, the Nurse Executive or a person designated by CNA's employer shall inform Board staff of any instance of CNA's non-compliance with the terms and conditions of this Order or of any other concern regarding CNA's work-related conduct or personal behavior that may affect CNA's ability to perform the duties of a nursing assistant.

12. CNA shall notify Board staff when there is a change in status of employment, including resignations and terminations.

13. CNA shall not work in any work setting when 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. CNA shall not be allowed to participate in the CNA2 training pursuant to Division 62 of the Oregon Administrative Rules.

15. CNA shall participate in and comply with any treatment recommendations set forth by a third party evaluator approved by the Board. Within fourteen (14) days of completing treatment, CNA shall submit to Board staff a copy of CNA's completion certificate or discharge summary. CNA shall attend Narcotics Anonymous (NA), Alcoholics Anonymous (AA) or similar recovery program on a weekly basis and provide proof of attendance to Board staff. CNA shall sign any release of information necessary to allow Board staff to communicate with CNA's treatment provider and release CNA's treatment records to the Board.

16. CNA shall participate in the Board's random urine drug testing program. Failure to comply with random urine or any other requested drug test shall result in CNA's immediate removal from working as a nursing assistant. CNA shall submit to tests to determine the presence of unauthorized substances immediately upon request by Board staff or CNA's employer. CNA 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 Order.

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Upon request of Board staff, CNA shall obtain an evaluation by a Board approved chemical abuse or dependence evaluator. CNA understands that CNA is financially responsible for any and all costs related to testing and evaluating. CNA's failure to maintain an account in good standing with the Board's laboratory vendor may be considered a violation of this Order.

17. CNA shall abstain from using alcohol and/or other intoxicating, mind altering, or potentially addictive drugs, including over-the-counter or prescription drugs while on probation, except as provided in Section 18 below. CNA shall avoid any over-the-counter products and food items containing alcohol and/or poppy seeds.

18. CNA may take medication for a documented medical condition provided that the medication is from a valid prescription prescribed by a person authorized by law to write such a prescription for the documented medical condition. CNA shall notify Board staff of any prescription within seventy-two (72) hours of its issuance. CNA shall sign any release of information necessary to allow Board staff to communicate with the prescribing person and release CNA's records to the Board. CNA shall discard any unused prescription medication when no longer needed or when expired.

19. CNA shall cease performing the duties of a nursing assistant upon the occurrence of a relapse, or at the request of Board staff because of a relapse or relapse behavior. The performance of nursing assistant duties may resume only when approved in writing by Board staff, in consultation with CNA's employer.

20. CNA shall notify any and all healthcare providers of the nature of CNA's chemical dependency to ensure that CNA's health history is complete before receiving any treatment, including medical and dental. CNA shall provide a copy of this Order to CNA's healthcare providers. CNA shall provide Board staff with the names and contact information of any and all health care providers. CNA shall sign any release of information necessary to allow Board staff to communicate with CNA's healthcare providers and release CNA's medical and treatment records to the Board. CNA is financially responsible for any costs incurred for compliance with the terms and conditions of this Order.

21. CNA shall notify Board staff at least three (3) business days prior to leaving town or going on vacation, with the exception of a family emergency.

22. CNA shall cooperate fully with Board staff in the supervision and investigation of CNA's compliance with the terms and conditions of this Order.

CNA understands that the conduct resulting in the violations of law described in this Order are considered by the Board to be of a grave nature and, if continued, constitutes a serious danger to public health and safety.

CNA understands that in the event CNA engages in future conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against CNA's certificate, up to and including revocation of CNA's certification to perform the duties of a nursing assistant.

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CNA understands that this Order will be submitted to the Board of Nursing for its approval and is subject to the Board's confirmation.

CNA understands that by signing this Stipulated Order, CNA waives the right to an administrative hearing under ORS 183.310 to 183.540. CNA acknowledges that no promises, representations, duress or coercion have been used to induce CNA to sign this Order.

CNA understands that this Order is a document of public record.

CNA has read this Stipulated Order, understands this Order completely, and freely signs this Stipulated Order for Probation.

IT IS SO AGREED:

Diane Bergeron, CNA	Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Gary Hickmann, RN Board President	Date

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