

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Johnny McGee, CNA) **VOLUNTARY SURRENDER**
)
Certificate No. 201011595CNA) **Reference No. 16-00650**

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. Johnny McGee (CNA) was issued a Nursing Assistant certificate by the Board on July 12, 2010.

In September 2013, CNA was terminated by his employer after multiple residents complained that he had recently handled them roughly. In February 2014, CNA verbally threatened multiple co-workers that he would shoot them. On March 4, 2014, CNA was arrested on the criminal charge of Disorderly Conduct shortly after police arrived at his workplace to investigate his above-mentioned verbal threats (CNA was terminated by his employer the following day). In October 2014, CNA was terminated by his employer following multiple internal complaints that he had recently handled residents roughly, had been disrespectful to residents/co-workers, had slept on duty, and had not followed resident care plans for transfers. On or about September 30, 2015, CNA submitted a renewal application to the Board on which he provided an inaccurate work history and failed to disclose that he had been arrested in March 2014. In March 2016, CNA was suspended by his employer after he yelled and cursed at resident who subsequently reported that he was physically rough/abusive to him. From October 16, 2015 through April 1, 2016, Board staff emailed CNA multiple requests for a written explanation of his March 2014 arrest. On April 1, 2016 and on April 26, 2016, Board staff mailed CNA requests for a copy of his work history and written explanations of the above-mentioned March 2016 incident and his March 2014 arrest. CNA never provided Board staff any of the aforementioned documents that they requested of him.

By the above actions, CNA is subject to discipline pursuant to ORS 678.442(2)(d) and (f) and *the pre-2015 effective versions of OAR 851-063-0090(2)(d) and (f) and (5) and (6)(a) and the post-2014 effective versions of OAR 851-063-0090(1)(a) and (2)(a) and (8)(d) and (h) and (10)(a) and (b) and (c)* which provide 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:

- (d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.
- (f) Conduct unbecoming a nursing assistant in the performance of duties.

The pre-2015 effective versions of:

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:
- (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;
- (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;
- (5) Conduct related to co-workers: violent, abusive, threatening, harassing or intimidating behavior towards a co-worker which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.
- (6) Conduct related to achieving and maintaining clinical competency:
- (a) Failing to competently perform the duties of a nursing assistant;

The post-2014 effective versions of:

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:

- (1) Conduct, regardless of setting, related to general fitness to perform nursing assistant authorized duties:
 - (a) Demonstrated incidents of violent, abusive, neglectful or reckless behavior;
 - (2) Conduct related to achieving and maintaining clinical competency:
 - (a) Failing to conform to the essential standards of acceptable and prevailing nursing assistant performance of duties. Actual injury need not be established;
 - (8) Conduct related to other federal or state statutes/rule violations:
 - (d) Abusing a person;
 - (h) Engaging in other unacceptable behavior towards or in the presence of the client. Such behavior includes but is not limited to using derogatory names, derogatory or threatening gestures, or profane language;
 - (10) Conduct related to the certification holder's relationship with the Board:
 - (a) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to waiver of confidentiality, except attorney-client privilege.
 - (b) Failing to answer truthfully and completely any question asked by the Board on an application for certification, renewal of certification, during the course of an investigation, or any other question asked by the Board;
 - (c) Failing to provide the Board with any documents requested by the Board

CNA wishes to cooperate with the Board in this matter and voluntarily surrender his Certified Nursing Assistant certificate.

Therefore, the following will be proposed to the Oregon State Board of Nursing and is agreed to by CNA:

That the voluntary surrender of the Nursing Assistant certificate of Johnny McGee be accepted. If, after a minimum of three years, Mr. McGee wishes to reinstate his Nursing Assistant certificate, he may submit an application to the Board to request reinstatement.

CNA agrees that he will not practice as a Certified Nursing Assistant from the date he signs this Stipulated Order.

CNA understands that this Stipulated 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, he waives the right to an administrative hearing under ORS 183.310 to 183.540, and to any judicial review or appeal thereof. CNA acknowledges that no promises, representations, duress or coercion have been used to induce him to sign this Stipulated Order.

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

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

Johnny McGee, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Bonnie Kostelecky, MS, MPA, RN
Board President

Date