

**BEFORE THE OREGON
STATE BOARD OF NURSING**

**In the Matter of
Sylvia Garcia, CNA**

FINAL ORDER

Certificate No. 000002013CNA

Reference No. 11-02317

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including nursing assistants, in the State of Oregon. Sylvia Garcia (Licensee) is a Certified Nursing Assistant (CNA) in the State of Oregon.

This Matter was considered by the Oregon State Board of Nursing at a regular meeting in Portland, Oregon on April 20, 2011. On March 22, 2011, a Notice stating that the Board intended to suspend the certified nursing certificate of Sylvia Garcia was sent to Certificate Holder by certified and regular mail to her address of record. This Notice alleged that Certificate Holder had failed to cooperate with the Board during the course of an investigation. The Notice further granted to Certificate Holder an opportunity for hearing, if requested, within 20 days of the mailing of the Notice. No such request for hearing has been received by the Board. The Notice designated the Board's file on this matter as the record for purposes of default.

NOW THEREFORE, after consideration of the records and files of the Board related to this Matter, the Board enters the following Order.

-I-

FINDINGS OF FACT

Based on the evidence submitted through the Notice and the agency file in this case, the Board finds the following:

1.1 Sylvia Garcia is a CNA in the state of Oregon, and has been certified since January 1990.

1.2 On or about February 1, 2011, Certificate Holder was reported to the Board for the alleged improper use of a harness while transferring a resident at Life Care Center in McMinnville Oregon. During the improper transfer, the resident fell, fracturing her humerus. The Board opened an investigation into the matter.

- 1.3 On or about February 7, 2011, a letter was sent to Certificate Holder's address of record, requesting she contact the Board within 10 business days to schedule an interview to discuss the allegations. Additionally, Certificate Holder was asked to provide a copy of her work history. No response was forthcoming.
- 1.4 On or about February 28, 2011, a second letter was sent to Certificate Holder's address of record, requesting she contact the Board within 5 business days to schedule an interview to discuss the allegations. No response was forthcoming.
- 1.5 On or about March 11, 2011, a third letter was sent to Certificate Holder's address of record, requesting that she contact the Board within 5 business days to schedule an interview to discuss the allegations. No response was forthcoming.

-II-

CONCLUSIONS OF LAW

- 2.1 That the Board has jurisdiction over Certificate Holder and over the subject matter of this proceeding.
- 2.2 That Certificate Holder's failure to cooperate with the Board during the course of an investigation as described in Section I above, constitutes conduct unbecoming a nursing assistant, in violation of ORS 678.442(2)(f), OAR 851-063-0080(6) and OAR 851-063-0090(9)(a).
- 2.3 That Certificate Holder defaulted on the Notice by not requesting a hearing within the allotted 20 days and as a result, pursuant to ORS 183.310 to 183.750, the Board may enter a Final Order by default.

-III-

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and the Board being fully advised in the premises, it is hereby:

ORDERED that Sylvia Garcia's nursing certificate in the State of Oregon is suspended, commencing five (5) business days from the date this Final Order is signed.

Should the Board reinstate the nursing certificate of Sylvia Garcia, she would be subject to whatever terms and conditions the Board may impose, including a period of suspension.

DATED this _____ day of April, 2011

Patricia Markesino, RN
Board President