

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Sylvia Garcia, CNA) **VOLUNTARY SURRENDER**
)
Certificate No. 000002013CNA) **Reference No. 16-00675**

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. Sylvia Garcia (CNA) was issued a Certified Nursing Assistant Certificate by the Board on January 01, 1990.

On or about October 15, 2015, the Board received notification from Oregon Department of Human Services, Office of Licensing and Regulatory Oversight, that CNA had been found to have emotionally abused a patient on or about December 9, 2014. An investigation was opened into the matter.

Through the course of the Board's investigation it was discovered that in 2014 CNA failed to follow a care plan on two occasions and had reportedly been rough and/or verbally abusive with patients on three occasions.

On November 17, 2015, CNA admitted to failing to follow a care plan. CNA denied abusing any patients.

By the above actions, CNA is subject to discipline pursuant to ORS 678.442(2)(f), OAR 851-063-0080(4)(6) and OAR 851-063-0090(1)(a)(3)(b)(8)(d) 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:

(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 impose a range of disciplinary sanctions including, but not limited to deny, reprimand, suspend, place on probation or revoke the certificate to perform duties as a CNA for the following causes:

(4) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder

(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:

(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;

- (3) Conduct related to client safety and integrity: ;
- (b) Failing to implement the plan of care developed by the registered nurse;
- (8) Conduct related to other federal or state statutes/rule violations:
- (d) Abusing a person;

CNA wishes to cooperate with the Board in this matter and voluntarily surrender her 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 Certified Nursing Assistant certificate of Sylvia Garcia be accepted. If, after a minimum of three years, Ms. Garcia wishes to reinstate her Certified Nursing Assistant certificate, she may submit an application to the Board to request reinstatement.

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

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, she 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 her 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 Voluntary Surrender.

Sylvia Garcia, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Bonnie Kostelecky, MS, MPA, RN
Board President

Date