

**BEFORE THE BOARD OF NURSING  
OF THE STATE OF OREGON**

<b>In the Matter of</b>	)	<b>AMENDED STIPULATION FOR</b>
	)	<b>PROBATION OF CERTIFIED</b>
<b>Gary A. Rogers, CNA</b>	)	<b>NURSING CERTIFICATE</b>
	)	
<b>Certificate No: 000028920CNA</b>	)	<b>Case No: 12-01598</b>

The Oregon State Board of Nursing is the state agency responsible for the certification and regulation of nursing assistants.

The Board received Certificate Holder's renewal application for certification on December 15, 2008. He disclosed that he had been arrested on November 1, 2008 for Driving under the Influence of Intoxicants. He pled guilty to the charge on February 27, 2009 and was convicted.

Certificate Holder was court-ordered to undergo an alcohol & drug evaluation. Certificate Holder provided the Board with the evaluation. He was diagnosed with Alcohol Dependence.

Certificate Holder entered outpatient treatment at Lifeworks Northwest and successfully completed treatment on March 3, 2010.

Certificate Holder entered 24 months of Probation per Board Order on June 18, 2009. He was employed at the start of probation but took a medical leave of absence in July 2009, because of some serious health issues. He did not return to work again until April 15, 2011. He currently has 15 months of favorable quarterly reports and is on track to complete probation on October 18, 2012. He has been compliant with his monthly probation check-ins and monthly urinalysis.

Certificate Holder exceeded his imposed 24 months of Board Ordered probation on June 18, 2011.

The above actions constitute violation of the terms and conditions of his Board Order and are pursuant to violations of ORS 678.442 (2) (f) and OAR 851-063-0090 (9) (d)

**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:

**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:

- (9) Conduct related to the Certificate Holder's relationship with the Board:
- (d) Violating the terms and conditions of a Board Order.

Mr. Rogers wishes to cooperate with the Board in this matter and has agreed to an Amended period of probation as specified below:

**That Mr. Rogers be monitored by the Oregon State Board of Nursing as per this Amended order, for an additional 12 month period of time. This amended Probation will be contingent on performing the duties at the level of a Certified Nursing Assistant. It is granted for the purposes of attaining 4 employee quarterly reports of monitored practice in compliance with his Board Order. Certificate Holder must practice a minimum of 80 hours each month of probation in a setting where he is able to exercise the full extent of scope of duties in order to demonstrate whether or not he is competent.**

Certificate Holder must comply with the following terms and conditions of probation:

1. He shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. He shall have twelve (12) months from Board acceptance of this Stipulation to complete probation.
3. He shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.
4. He will not look for, accept, or begin a new CNA position without the approval of Board staff. This includes changes of the employer itself or changes within the facility or institution.
5. He shall notify the Board of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
6. He shall present himself, in person, to designated Board staff for monthly interviews during the probationary period. Frequency of contact may be reviewed and may be revised periodically at the discretion of Board staff. A telephone interview may be substituted for a personal interview at the discretion of Board staff.
7. He shall inform current and prospective employers of the probationary status of his certificate, the reasons for his probation, and terms and conditions of probation. If there is a Nurse Executive, that person is to be informed of Certificate Holder's probationary status.
8. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Certificate Holder is employed.
9. He shall work under the direct supervision of a licensed nurse. He shall be employed in a setting where his nursing supervisor agrees to submit written evaluations of work performance at least every three (3) months during the probationary period. Between regular reporting periods, the Nurse Executive or comparable person, shall inform the Board of any instance of Certificate Holder's non-compliance with the terms and conditions of this Stipulation for Probation, or of any other concern there may be regarding Certificate Holder's work-related conduct or personal behavior that may affect his ability to perform the duties of a CNA.
10. He shall not be employed by a temporary staffing agency during the probationary period unless that agency can provide written evidence to the Board that Certificate

Holder will not be assigned to multiple facilities.

11. He shall participate in the Board's random testing program. Failure to comply with the random testing program will result in an immediate removal from the performance of nursing assistant duties. He will obtain a re-evaluation by a Board approved chemical dependence evaluator. The presence of unauthorized substances may be considered a violation of the terms and conditions of this stipulation. He understands that he will be financially responsible for the costs related to this testing.
12. He shall abstain from the use of intoxicating, mind altering, or potentially addictive drugs, both over the counter and prescription drugs and alcohol during the period of probation.
13. He may take medication for a documented medical condition, provided that he obtains such medication only by legal prescription written by a person authorized by law to write such a prescription. He will notify the Board within 72 hours in the event he is prescribed such medication, and shall authorize the prescribing person to communicate with the Board about his medical condition. He shall produce the medical records pertaining to the medical condition and medication use.
14. He will notify any health care providers of the nature of his chemical dependence diagnosis, to ensure that his health history is complete, before receiving any treatment, including medical and dental treatment. He will provide a copy of this Stipulation to his provider. He further agrees to provide the Board with the names of his health care providers, to sign releases of information with the providers, and produce to the Board documentation of the health care provided (medical records).
15. He shall submit to tests to determine the presence of unauthorized substances, immediately upon request by the Board staff or his employer. The presence of unauthorized substances may be considered a violation of terms and conditions of this stipulation. He shall sign any release of information necessary to insure the Board will receive the results of such testing.
16. He shall cease the performance of duties as a CNA upon the occurrence of a relapse or at the request of the probation coordinator because of relapse or relapse behavior. Performance of duties may resume when approved by the probation coordinator, in consultation with his employer.
17. He is financially responsible for any costs incurred as a result of compliance with the terms and conditions of this stipulation.
18. He shall cooperate fully with the Board in the supervision and investigation of his compliance with the terms and conditions of this Stipulation.

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

Certificate Holder also understands that in the event he engages in future conduct resulting in violations of the law or terms of probation, the Board may take further disciplinary action against his certificate, up to and including revocation of his certificate to perform duties as a nursing assistant.

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

Certificate Holder understands that by entering into the stipulated agreement, he waives the right to an administrative hearing.

Certificate Holder states no promises, representation, duress, or coercion has been used to induce him to sign the Stipulation.

Certificate Holder has read this Stipulation, understands the Stipulation completely, and freely signs the Stipulation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2012

\_\_\_\_\_  
Gary A. Rogers, CNA

**OREGON STATE BOARD OF NURSING**

\_\_\_\_\_  
Chris Montenaro  
Compliance Manager

\_\_\_\_\_  
Benita Ficarra  
Probation Coordinator

ORDER

IT IS SO ORDERED

THE OREGON STATE BOARD OF NURSING

\_\_\_\_\_  
Kay Carnegie, RN, MS  
Board President

\_\_\_\_\_  
Date

SIGNATURES & DATED COPY ON FILE IN BOARD OFFICE