

**BEFORE THE OREGON
STATE BOARD OF NURSING**

**In the Matter of
Nicole Kelley, CNA**

)
)
) **FINAL ORDER BY DEFAULT**
)
)

Certificate No. 201112450CNA

) **Reference No. 12-01358**

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. Nicole Kelley (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This matter was considered by the Board at an interim teleconference meeting in Portland, Oregon on March 21, 2012. Certificate Holder did not appear personally.

On January 31, 2012, a Notice stating that the Board intended to suspend the nursing assistant certificate of Certificate Holder was sent to Certificate Holder via certified and first-class mail to her address of record. The Notice alleged that Ms. Kelley failed to cooperate with the Board during the course of an investigation.

The Notice granted 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 its records and files 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 Certificate Holder was issued a Certified Nursing Assistant certificate in the state of Oregon on September 22, 2011.

1.2 On or about December 23, 2011, Certificate Holder was reported to the Board for failing to show up for work for an in-home care client on two separate occasions, thereby abandoning her

patient. Certificate Holder was unreachable by telephone.

1.3 On December 23, 2011, Board staff mailed a letter to Certificate Holder's address of record requesting that she schedule an interview to discuss the allegations. Certificate Holder was further instructed to send a written statement regarding the allegations and a copy of her current work history. Certificate Holder failed to schedule an interview and did not provide any documents to the Board.

1.4 On January 9, 2012, a second letter was sent to Certificate Holder's address of record, requesting that she contact the Board within five (5) business days to schedule an interview to discuss the allegations. Certificate Holder was also asked to provide a copy of her current work history and a written statement regarding the allegations. Certificate Holder failed to schedule an interview and did not provide any documents to the Board.

1.5 On January 31, 2012, Board staff mailed a Notice of Proposed Suspension of Certified Nursing Assistant Certificate to Certificate Holder via first-class and certified mail. The Notice granted Certificate Holder 20 days from the date of the mailing of the Notice to request a hearing. The Notice also designated that the agency file would be the record for purposes of default.

II

CONCLUSIONS OF LAW

2.1 That the Board has jurisdiction over the Certificate Holder, Nicole Kelley, 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 is grounds for disciplinary action pursuant to ORS 678.442 (2) (f), OAR 851-063-0080 (6) and OAR 851-0090 (9) (a) and (c).

2.3 That Certificate Holder did not request a hearing within the allotted timeframe and thereby is in default on the Notice. Pursuant to ORS 183.417 (3), the Board may enter a Final Order by Default.

III

ORDER

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

ORDERED that the nursing assistant certificate of Nicole Kelley is **SUSPENDED** for a minimum of two weeks, commencing five business days from the date this Order is signed, and shall continue until such time as Ms. Kelley has fully cooperated with the Board's investigation.

Should the Board reinstate the nursing certificate of Ms. Kelley, she would be subject to whatever terms and conditions the Board may impose.

DATED this ____ day of March, 2012

FOR THE BOARD OF NURSING OF THE STATE OF OREGON

Kay Carnegie, RN, MS
Board President

TO: NICOLE KELLEY: You may file a petition for reconsideration or rehearing of this Order. Reconsideration or rehearing may be obtained by filing a petition with the Board of Nursing within 60 days from the service of this Order. Your petition shall set forth the specific grounds for reconsideration. Reconsideration or rehearing is pursuant to the provisions in ORS 183.482.

As an alternative to filing a Petition for Reconsideration of this Order, you are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition with the Oregon Court of Appeals for review within 60 days from the date of service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.