

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of)	
)	
)	FINAL ORDER
Pamela Lynne Swearingen, CNA)	
)	Case No. 10C-300
Certificate No.: 000014150CNA)	

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, in the State of Oregon. Pamela Lynn Swearingen (Certificate Holder) is a certified nursing assistant in the State of Oregon.

This Matter was considered by the Board on January 19, 2011. Certificate Holder did not appear personally. The issue for the Board was whether to approve the Stipulation signed by Certificate Holder on November 26, 2010, and so dispense with this Matter pursuant to ORS 183.417(3).

Upon review of the Stipulation and the agency file in this Matter, the Board finds that reasonable factual and legal grounds exist to support approval of the Stipulation. It is hereby

ORDERED that the Stipulation signed by Certificate Holder on November 26, 2010, be approved and by this reference incorporated herein, and, it is further

ORDERED that Board accept the Voluntary Surrender of Pamela Lynne Swearingen's certificate to perform the duties of a nursing assistant and that the Stipulation for Voluntary Surrender be adopted.

DATED this _____ day of January 2011

Patricia Markesino, RN
Board President

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

In the Matter of)	
)	STIPULATION FOR
Pamela Lynne Swearingen, CNA)	VOLUNTARY SURRENDER
)	OF NURSING ASSISTANT CERTIFICATE
Certificate No.: 000014150CNA)	Case No.: 10C-300

Pamela Lynne Swearingen, hereinafter referred to as “Certificate Holder,” is a Certified Nursing Assistant (CNA) in the State of Oregon.

Certificate Holder graduated from Merle West Medical Center Nursing Assistant Training Program on May 1, 1979.

On or about June 14, 2010, the Board received an Order to place a designation of abuse next to Certificate Holder’s name on the abuse registry for a substantiated allegation of physical abuse of a resident. The allegations included slapping and poking a resident, delaying meals, and jerking the resident’s wheelchair around.

According to the Department of Health Services (DHS) report, a witness observed Certificate Holder hit a resident on the wrist when she thought the television was too loud. Certificate Holder was observed slapping the resident on the chest and shoulder when he wasn’t paying attention to her. On another occasion, Certificate Holder went to get the resident out of the public restroom and pushed his wheelchair out of the restroom in an aggressive manner. Certificate Holder was accused of waiting long periods of time before feeding the resident his meals during mealtime.

Certificate Holder admitted to DHS and Board staff that she has poked the resident in the chest or shoulder at times to get his attention. The resident would often turn up the television as loud as it would go and he wouldn’t hear Certificate Holder’s requests to turn it down. Certificate Holder admitted she would take the television remote and would sometimes slap the resident’s hand “like you would with a two year old.”

Certificate Holder denied “jerking around” the resident’s wheelchair, although she admitted that his wheelchair was too big for the public restroom and she struggled to get his wheelchair out of the restroom. Certificate Holder denied delaying the resident’s meals. At times she would allow the resident’s food to cool before feeding him, but she denied delaying his feeding time intentionally.

WHEREAS by the above actions, Pamela Lynne Swearingen is subject to disciplinary action pursuant to violations of ORS 678.442(2) (f), OAR 851-063-0080 (6) and OAR 851-063-0090 (2) (d), 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:

(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 deny, reprimand, suspend, place on probation or revoke the certificate to perform duties as a CNA for the following causes:

(6) Conduct unbecoming a nursing assistant in the performance of duties. ORS 678.442(2)(f).

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.

Certificate Holder admits to the above violations and wishes to cooperate with the Board in resolving the present disciplinary problem. She has elected to voluntarily surrender her nursing assistant certificate.

THEREFORE, the following will be proposed to the Oregon State Board of Nursing and is agreed to by Certificate Holder:

That the voluntary surrender of the nursing assistant certificate of Pamela Lynne Swearingen be accepted. If, at a future date, she wishes to reinstate her nursing assistant certificate, she shall appear before the Board to request reinstatement of her certificate as a Certified Nursing Assistant. At the time of her request for reinstatement, she shall provide evidence of her ability to safely return to the performance of duties as a nursing assistant. Should the Board reinstate the certificate of Ms. Swearingen, she shall make application to and successfully complete a Board approved Nursing Assistant training program and the Board administered competency examination as provided under ORS 678.440 and OAR 851-60-085. Once she successfully passes the competency evaluation, she may be subject to whatever terms and conditions the Board may impose.

Certificate Holder agrees that she will not practice as a Certified Nursing Assistant from the date of signature on this Stipulation.

Certificate Holder understands that this Stipulation will be a public document.

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

Certificate Holder understands that by signing this Stipulated Agreement she waives the right to an administrative hearing. She acknowledges that no promises, representations, duress or coercion have been used to induce her to sign this Stipulation.

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

DATED this _____ day of _____, 2010

Pamela Lynne Swearingen, CNA

**FOR THE BOARD OF NURSING OF
THE STATE OF OREGON**

Marilyn Hudson, RN, MSN, CNS, FRE
Investigations Manager
Investigations Department

Cheryl Martini
Investigator
Investigations Department