

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Paul A. Barry, CNA) **VOLUNTARY SURRENDER OF**
) **NURSING ASSISTANT CERTIFICATE**
)
Certificate No. 000036392CNA) **Reference No. 12-01946**

Paul A. Barry, hereinafter referred to as “Certificate Holder” is a Certified Nursing Assistant in the State of Oregon. Certificate Holder received his nursing assistant certificate by examination on November 26, 1996.

On March 10, 2010, the Board accepted a signed Stipulation for Probation by Certificate Holder, placing his nursing assistant certificate on twenty-four (24) months of probation. Certificate Holder was placed on probation related to a Driving Under the Influence of Intoxicants (DUI) arrest and chemical dependency.

On October 1, 2010 and October 12, 2010, Certificate Holder tested positive for marijuana. He admitted that he had been using marijuana. The probation monitor gave Certificate Holder a verbal warning that he could not use marijuana while on probation, and such use was a violation of his probation agreement. If he continued to test positive for marijuana, he would be referred to the Board for consideration of possible disciplinary action.

On April 12, 2011 and April 25, 2011, Certificate Holder tested positive for marijuana. His employer was notified and he was pulled from his work schedule. Certificate Holder was referred to the Board. On June 22, 2011, the Board reviewed his case. They decided to allow Certificate Holder to continue on probation with a final warning. A written final warning was sent to Certificate Holder.

On January 10, 2012 Certificate Holder missed a random urine drug screen. On or about February 22, 2012, the probation monitor called Certificate Holder’s treatment provider regarding urine drug screen results. The counselor disclosed Certificate Holder had tested positive for marijuana one or two months prior and needed to extend his treatment. The counselor did confirm that following the positive urine drug screen, the Certificate Holder successfully completed treatment and was involved in a 12 step program.

On August 3, 2012, Certificate Holder informed Board staff that he has made the decision to voluntarily relinquish his Certified Nursing Assistant certificate.

The above conduct constitutes a violation of the provisions of ORS 678.442 (2) (f) and OAR 851-063-0090 (9) (d) which provides 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 851-063-0090 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.

Certificate Holder admits to the above violations and wishes to cooperate with the Board in resolving the present disciplinary problem. He has elected to voluntarily surrender his Certified Nursing Assistant certificate.

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

That the Voluntary Surrender of the nursing assistant certificate of Paul A. Barry be accepted. If, after a minimum of three (3) years, he wishes to reinstate his certificate to perform the duties of a nursing assistant, he may submit an application to the Board to request reinstatement. At the time of his request for reinstatement, he shall provide evidence of two years of sobriety and his ability to safely return to the performance of duties as a nursing assistant. Should the Board reinstate the certificate of Mr. Barry, he 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 851-062-0070. Once he successfully passes the competency evaluation, he may be subject to whatever terms and conditions the Board may impose.

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

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 this Stipulation will become a public record at such time as the Board issues an Order adopting it.

Certificate Holder understands that by signing this Stipulated Agreement he waives any and all rights to an administrative hearing. He acknowledges that no promises, representations, duress or coercion have been used to induce him to sign this Stipulation.

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

IT IS SO AGREED:

Paul A. Barry, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Kay Carnegie, RN, MS
Board President

Date

SIGNATURES & DATED COPY ON FILE IN BOARD OFFICE