

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of  
Jessica Spears, CNA**

**FINAL ORDER**

**Certificate No. 200310748CNA**

**Reference No. 11-02563**

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. Jessica Spears (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This Matter was considered by the Board on September 21, 2011. Certificate Holder did not appear personally. The issue for the Board was whether to approve the Stipulation signed by Certificate Holder on September 21, 2011 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 September 21, 2011 be approved and by this reference incorporated herein, and it is further

**ORDERED** that the Board accept the Stipulation for Reprimand of Jessica Spears' Certified Nursing Assistant certificate and that the Stipulation for Reprimand be adopted.

DATED this \_\_\_\_ day of September, 2011

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

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Patricia Markesino, RN  
Board President

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of** ) **STIPULATION FOR REPRIMAND**  
**Jessica Spears, CNA** )  
 )  
**Certificate No. 200310748CNA** ) **Case No. 11-02563**

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The Oregon State Board of Nursing (Board) is the state agency responsible for the certification and regulation of Certified Nursing Assistants (CNA) in Oregon.

Jessica Spears, hereinafter referred to as "Certificate Holder," was initially certified as a CNA in Oregon on March 7, 2003. On or about March 3, 2011, Certificate Holder submitted a renewal application to the Board for certification as a CNA.

In her renewal application, Certificate Holder was asked the following question:

"2(a) Have you ever been arrested or cited in lieu of arrest, charged with, entered a plea of guilty or no contest, or convicted of any felony criminal offense?"

Certificate Holder answered "no" to the question above. However, a routine criminal background check revealed that Certificate Holder was arrested on August 5, 2009 for Failure to Perform Duties of a Driver to Injured Person. Certificate Holder ultimately pled guilty and was convicted of Assault 3 and Failure to Perform Duties of a Driver to Injured Person, both Class C Felonies. She was sentenced to 10 days in jail, three years of probation and ordered to pay restitution.

At the request of Board staff, Certificate Holder provided additional information about this arrest and an explanation of her failure to disclose the arrest on her application. Certificate Holder was arrested after she failed to yield to a pedestrian at a crosswalk, causing injury to the pedestrian.

Certificate Holder stated that she did not see the pedestrian in the crosswalk but did see a car in an adjacent lane come to a stop. Certificate Holder came to a quick stop with her vehicle partially inside the crosswalk. One witness to the incident stated that it appeared that the pedestrian walked into Certificate Holder's car. The pedestrian injured her right leg and left foot and required medical care.

Certificate Holder got out of her car to check on the status of the pedestrian. Certificate Holder confirmed that an ambulance had been called by a witness to the incident. She then quickly left the scene and did not return. Certificate Holder disclosed that she left the scene because her driver's license was suspended and she wanted to avoid receiving a citation for driving with a suspended license. Certificate Holder stated that she panicked in that moment and made a poor decision to leave the scene.

Certificate Holder stated that she did not intend to mislead the Board when she failed to disclose

her arrest. She believed that she did not have to disclose this arrest, despite the wording of the application question quoted above. Certificate Holder stated that she had been advised by an attorney that her charges may be dismissed upon completion of her probation.

The above actions constitute violations of the provisions of ORS 678.442(2)(a) and (f); OAR 851-063-0080(1); and OAR 851-063-0090(9)(b), 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:
- (a) Conviction of the certificate holder of a crime where such crime bears demonstrable relationship to the duties of a nursing assistant. A copy of the record of such conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of the conviction.
  - (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:

- (1) Conviction of the nursing assistant of a crime where such crime bears demonstrable relationship to the duties of 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", 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:
- (b) Failing to answer truthfully and completely any question asked by the Board on an application for initial certification, renewal of certification or recertification.

Certificate Holder admits to the above violations and wishes to cooperate with the Board in resolving the present matter.

Therefore the following will be proposed to the Board and is agreed to by Certificate Holder:

**That the Certified Nursing Assistant certificate of Jessica Spears be reprimanded.**

Certificate Holder understands that the conduct resulting in the violations of law described in this stipulation are considered by the Board to be of a serious nature.

Certificate Holder understands that in the event she engages in future conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against her certificate, up to and including revocation of her certificate as a CNA and/or any

other certificate or license she may obtain in the future.

Certificate Holder understands that this Stipulation will be submitted to the Board of Nursing for their approval and is subject to the Board's acceptance. Certificate Holder understands that if this Stipulation is accepted, the Board will issue a Final Order based thereon. Certificate Holder understands that this Stipulation will become a matter of public record at such time as the Board issues a Final Order adopting it.

Certificate Holder understands that by signing this Stipulation, she waives any and all rights to notice and contested case hearing under the Oregon Administrative Procedures Act (ORS Chapter 183), and any and all rights to appeal or otherwise challenge this Stipulation and any Final Order issued based thereon.

Certificate Holder acknowledges that no promises or representations have been made or used to induce her to sign this Stipulation.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Jessica Spears, CNA

FOR THE OREGON STATE BOARD OF NURSING

\_\_\_\_\_  
Marilyn Hudson RN, MSN, CNS, FRE  
Investigation Manager  
Investigation Department

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Shanon Rahimi  
Investigator  
Investigation Department