

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

	)	
<b>In the Matter of</b>	)	
<b>Arden Carter, CNA</b>	)	<b>FINAL ORDER</b>
	)	
	)	
<b>Certificate No. 000044714CNA</b>	)	<b>Reference No. 11-02254</b>

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The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, certifying, regulating and disciplining certain health care providers, including Certified Nursing Assistants, in the State of Oregon. Arden Lee Carter (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This Matter was considered by the Board on June 22, 2011. Certificate Holder did not appear personally. The issue for the Board was whether to approve the Stipulation for Probation signed by Certificate Holder on April 20, 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 nursing assistant certificate of Arden Lee Carter be placed on probation and that the Stipulation for Probation signed by Certificate Holder be approved and by this reference incorporated herein, and

It is further **ORDERED** that Certificate Holder shall meet all of the terms and conditions as stated in the stipulation.

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

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

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Patricia Markesino, RN  
Board President

SIGNATURES & DATED COPY TO THE BOARD OFFICE

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of** ) **STIPULATION FOR PROBATION**  
**Arden Carter, CNA** )  
)  
)  
**Certificate No. 000044714CNA** ) **Reference No. 11-02254**

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Arden Lee Carter (Certificate Holder) was issued his CNA certificate by the Oregon State Board of Nursing (Board) on December 14, 1999.

On January 21, 2011, Certificate Holder contacted the Board to self-report use of marijuana while on duty at Sacred Heart Medical Center – Riverbend, in Springfield, OR.

The investigation revealed that on January 18, 2011, Certificate Holder left the nursing unit at Sacred Heart Medical Center for break, drove his car to an outside parking lot, exited the car to smoke marijuana, and returned to work. Certificate Holder tested positive for marijuana on a urine drug screen, and was terminated from employment.

On February 15, 2011, Certificate Holder obtained a chemical dependency evaluation through Adapt Treatment Center, which revealed a diagnosis of Cannabis Dependence. Certificate Holder entered chemical dependency treatment, with a sobriety date of January 18, 2011. A urine drug screen dated February 15, 2011 was negative for marijuana metabolite.

On March 7, 2011, Certificate Holder met with Board staff to discuss the matter. Certificate Holder acknowledged his actions were wrong and accepted responsibility for them. He explained this was the first time he used marijuana at work. Certificate Holder said he was embarrassed by his actions, and said he understood that he endangered his patient by being under the influence of marijuana. Certificate Holder has signed an Interim Order by Consent to remove himself from practice until the issue is resolved by the Board.

By the above actions, Certificate Holder is subject to discipline pursuant to violations of ORS 678.442 (2) (c) and (f); OAR 851-063-0090 (7) (a).

**ORS 678.442**

**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:

(c) Impairment as defined in ORS 676.303

(f) Conduct unbecoming a nursing assistant in the performance of duties.

**OAR 851-063-0090**

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:

(7) Conduct related to impaired function:

- (a) Use of drugs, alcohol or mind-altering substances to an extent or in a manner dangerous or injurious to the nursing assistant or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant;

Certificate Holder admits that the above allegations occurred and constitute violations of the Nurse Practice Act. He wishes to cooperate with the Board in resolving the present disciplinary problems. The following will be proposed to the Oregon State Board of Nursing and is agreed to by Certificate Holder:

**That Arden Lee Carter, CNA be monitored by the Oregon State Board of Nursing from date of signature on the Stipulated Agreement. That Certificate Holder, in his performance of duties as a Certified Nursing Assistant, will be placed on probation for a twenty-four (24) month period. Certificate Holder must complete the recommended chemical dependency treatment, and maintain a recovery-based support system after completion of this treatment, throughout the probationary period. Probation will be contingent on performing the duties at the level of a Certified Nursing Assistant, and Certificate Holder must practice a minimum of eighty (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 he is competent. Certificate Holder shall have thirty-six (36) months from Board acceptance of this Stipulation to complete probation.**

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. Certificate Holder shall have thirty-six (36) months from Board acceptance of this Stipulation to complete the twenty four-months of the probation period.
3. He shall notify the Board, in writing, prior to any change of address or employment setting, during the probation period.
4. He shall maintain an active license or certificate.
5. He shall inform the Board in advance of any absences from Oregon and/or move from Oregon to another licensing jurisdiction. If he completes a probationary period or monitoring program in another state, he will provide evidence of completion. At that time, the Board will evaluate his probationary status in Oregon.
6. He shall present himself, in person, to designated Board staff for interviews on a monthly basis 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 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.
8. He will not accept, or begin a new CNA position without the approval of the Board. This includes changes of the employer itself or changes within the facility or institution.
9. 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.

10. The Nurse Executive will receive copies of the Stipulation for Probation and Board Order when Certificate Holder is employed.
11. 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 (on forms provided by the Board) at least every three- (3) months during the probationary period.
12. 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.
13. He shall notify the Board when there is a change in status of employment including resignations or terminations.
14. He shall not work for a temporary agency, assisted living, adult foster care, home hospice, or any practice setting in which on-site supervision is not available.
15. He shall participate in the Board's random urine program. Failure to comply with the random urine 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.
16. 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. He shall avoid any over the counter products and food items containing alcohol and poppy seeds.
17. He may take medication for a documented medical condition, provided that he obtains such medication only by a 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.
18. 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).
19. 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.
20. 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.

21. He is financially responsible for any costs incurred as a result of compliance with the terms and conditions of the stipulation.
22. He shall notify the Board within 48 hours of leaving town or going on vacation with the exception of a family emergency.
23. 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 a 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 make 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 understands that this document is a public record and has read this Stipulation, understands the Stipulation completely, and freely signs the Stipulation.

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

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Arden Carter, CNA

FOR THE OREGON STATE BOARD OF NURSING

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Marilyn Hudson RN, MSN, CNS, FRE  
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Investigation Department

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