

**BEFORE THE OREGON
STATE BOARD OF NURSING**

**In the Matter of
Leo Burns, CNA**

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

Certificate No. 200110755CNA) **Reference No. 12-01003**

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. Leo Burns (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This matter was considered by the Board at a meeting held on September 19, 2012. Certificate Holder did not appear personally.

On August 24, 2012, a Notice stating that the Board intended to revoke the Nursing Assistant Certificate of Certificate Holder was sent to Certificate Holder by certified mail to his address of record. This Notice alleged that Certificate Holder failed to cooperate with the Board's 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 the records and files of the Board 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 initially certified as a nursing assistant (CNA) in the State of Oregon on April 16, 2001.
- 1.2 On or about October 26, 2011, Certificate Holder came to the Board's attention for allegations of abuse. The Board opened an investigation into this matter.
- 1.3 On May 08, 2012, Board staff mailed a letter to Certificate Holder's address of record requesting that Certificate Holder schedule an interview to discuss the allegations.

- Certificate Holder was further instructed to send additional documentation to the Board.
- 1.4 On May 17, 2012, Certificate Holder called Board staff and scheduled a personal interview to be held at the Board office on June 11, 2012 at 1:00 p.m.
 - 1.5 On June 8, 2012, Certificate Holder called Board staff and cancelled his interview. Certificate Holder advised Board staff he would call and reschedule his appointment.
 - 1.6 On July 2, 2012, a second letter was sent to Certificate Holder's address of record requesting that Certificate Holder contact the Board within five (5) business days to schedule an interview to discuss the allegations. Certificate Holder was also asked to send additional documentation regarding the allegations to the Board. Certificate Holder failed to schedule an interview and did not provide any documents to the Board.
 - 1.7 On July 23, 2012, a Notice of Proposed Suspension of Nursing Assistant Certificate was sent by regular and certified mail to Certificate Holder's address of record. The Notice granted Certificate Holder an opportunity for a hearing, if requested within 20 days of mailing of the Notice.
 - 1.8 Certificate Holder did not request a hearing within 20 days of mailing of the Notice.
 - 1.9 At a meeting held on August 15, 2012, the Board issued a Final Order by Default, suspending Certificate Holder's CNA certificate. In addition, the Board voted to issue Certificate Holder a Notice of Proposed Revocation of Nursing Assistant Certificate.
 - 1.10 On August 24, 2012, a Notice of Proposed Revocation of Nursing Assistant Certificate was sent by regular and certified mail to Certificate Holder's address of record. The Notice granted Certificate Holder an opportunity for a hearing, if requested within 20 days of mailing of the Notice.
 - 1.11 Certificate Holder did not request a hearing within 20 days of mailing of the Notice.

-II-

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

- 2.1 That the Board has jurisdiction over Certificate Holder, Leo Burns, 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) and OAR 851-063-0080(6) and OAR 851-063-0090 (9)(a)(c).
- 2.3 That Certificate Holder defaulted on the Notice by not requesting a hearing within the

allotted 20 days and, as a result, pursuant to ORS 183.310 to 183.750, the Board may enter a Final Order by Default.

-III-

ORDER

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

ORDERED that Leo Burns' Nursing Assistant Certificate in the State of Oregon is revoked.

According to OAR 851-001-0015 Certificate Holder Leo Burns will be eligible for reinstatement after three years. After a minimum of three years, Certificate Holder may submit an application to the Board to request reinstatement. Certificate Holder shall provide documented evidence of reformation. Certificate Holder may need to successfully complete a CNA training program and the certification examination. Should the Board reinstate the nursing assistant certificate of the Certificate Holder he will be subject to whatever terms and conditions the Board may impose.

DATED this ____ day of September, 2012

FOR THE BOARD OF NURSING OF THE STATE OF OREGON

Kay Carnegie, RN, MS
Board President

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.