

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Haylie Brocart, CNA) **PROBATION**
)
Certificate No. 201500979CNA) **Reference No. 15-01221**

Haylie Brocart (Certificate Holder) was issued a Certified Nursing Assistant certificate by the Oregon State Board of Nursing (Board) on February 17, 2015.

On or about February 24, 2015, the Board received information that Certificate Holder exhibited signs of impairment at work while working as a nursing assistant. On February 23, 2015, just prior to starting her shift, Certificate Holder was confronted about concerns that she was impaired and was sent home from work. The following day, Certificate Holder acknowledged she had used methamphetamine earlier in the day, prior to her shift the day before. Since the incident at work, Certificate Holder has engaged in treatment and stated she is committed to her sobriety.

By the above actions, Certificate Holder is subject to discipline pursuant to ORS 678.442(2)(f), OAR 851-063-0080(6), and OAR 851-063-0090(7)(c) & (8)(i), 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 impose a range of disciplinary sanctions including, but not limited to 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.

OAR 851-063-0090 Conduct Unbecoming a Nursing Assistant

A CNA, regardless of job location, responsibilities, or use of the title "CNA," whose behavior fails to conform to the legal standard and accepted standards of the nursing assistant profession, or who may adversely affect the health, safety or welfare of the public, may be found guilty of conduct unbecoming a nursing assistant. Such conduct includes but is not limited to:

- (7) Conduct related to safe performance of authorized duties:
 - (c) Using a prescription or non-prescription drug, alcohol, or a mind-altering substance 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 perform the authorized duties safely.
- (8) Conduct related to other federal or state statutes/rule violations:
 - (i) Possessing, obtaining, attempting to obtain, furnishing or administering prescription

or controlled drugs to any person, including self, except as directed by a LIP authorized by law to prescribe drugs.

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

Certificate Holder shall be placed on probation effective the date the Board approves this Stipulated Order for Probation. Certificate Holder's compliance with this Order will be monitored by the Oregon State Board of Nursing. Certificate Holder must complete a twenty-four (24) month period of probation to begin upon Certificate Holder's return to work, monitored as outlined below. Certificate Holder must work a minimum of sixteen (16) hours per week, and no more than a maximum of one (1.0) FTE. Certificate Holder must work in a setting where Certificate Holder can exercise the full extent of Certificate Holder's scope of duties, in order to demonstrate Certificate Holder's competence. Limited overtime may be approved on occasion, at the discretion of Board staff. Any period in which Certificate Holder does not work in the state of Oregon will not count toward the probationary period.

Certificate Holder shall comply with the following terms and conditions of probation:

1. Certificate Holder 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's acceptance of this Order to complete twenty-four (24) months of monitored practice.
3. Certificate Holder shall notify Board staff, in writing, prior to any change of address or employment setting during the probation period.
4. Certificate Holder shall maintain active certification.
5. Certificate Holder shall inform Board staff in advance of any absences from Oregon and/or any move from Oregon to another licensing jurisdiction. If Certificate Holder leaves the state and is unable to work in the state of Oregon, Certificate Holder's probationary status will be re-evaluated.
6. Certificate Holder shall appear in person or by phone, to designated Board staff for interviews on a monthly basis during the probationary period. Frequency of contact may be reviewed and revised periodically at the discretion of Board staff.
7. Certificate Holder shall notify Board staff of any citations, arrests, or convictions for any offense, whether felony, misdemeanor, violation, or citation within seven (7) days of the occurrence.
8. Certificate Holder will not look for, accept, or begin a new nursing assistant position without prior approval of the Board. This includes changes of the employer itself or changes within the facility or institution.

9. Certificate Holder shall inform current and prospective employers, including any Nurse Executive, of the probationary status of Certificate Holder's certification, the reasons for probation, and terms and conditions of probation. If Certificate Holder's employer has a Nurse Executive, Certificate Holder shall inform Board staff of the name of the Nurse Executive and Board staff will provide the Nurse Executive with a copy of this Order.
10. Certificate Holder shall work under the direct supervision of another licensed healthcare professional, functioning at a higher level of licensure, who is working in the same physical location and readily available to observe Certificate Holder's work and provide assistance. Certificate Holder shall be employed in a setting where Certificate Holder's nursing assistant supervisor agrees to submit written evaluations of work performance (on forms provided by the Board) every three (3) months during the probationary period. The quarterly evaluation is expected to be received by Board staff within ten (10) days of the due date. If the evaluation is not timely received, Board staff will contact the employer with a reminder. If Board staff is not in receipt of the report within five (5) business days from the reminder date, Certificate Holder may be restricted from performing the duties of a nursing assistant.
11. Between quarterly reporting periods, the Nurse Executive or a person designated by Certificate Holder's employer shall inform Board staff of any instance of Certificate Holder's non-compliance with the terms and conditions of this Order or of any other concern regarding Certificate Holder's work-related conduct or personal behavior that may affect Certificate Holder's ability to perform the duties of a nursing assistant.
12. Certificate Holder shall notify Board staff when there is a change in status of employment, including resignations and terminations.
13. Certificate Holder shall not work in any work setting when on-site supervision is not available. This generally includes home health agencies, traveling agencies, float pools, temporary agencies, assisted living facilities, adult foster care, independent consulting contracts, home hospice, and night shifts outside of acute care settings.
14. Certificate Holder shall not be allowed to participate in the CNA2 training pursuant to Division 62 of the Oregon Administrative Rules.
15. Certificate Holder shall participate in and comply with any treatment recommendations set forth by a third party evaluator approved by the Board. Within fourteen (14) days of completing treatment, Certificate Holder shall submit to Board staff a copy of Certificate Holder's completion certificate or discharge summary. Certificate Holder shall attend Narcotics Anonymous (NA), Alcoholics Anonymous (AA) or similar recovery program on a weekly basis and provide proof of attendance to Board staff. Certificate Holder shall sign any release of information necessary to allow Board staff to communicate with Certificate Holder's treatment provider and release Certificate Holder's treatment records to the Board.
16. Certificate Holder shall participate in the Board's random urine drug testing program. Failure to comply with random urine or any other requested drug test shall result in

Certificate Holder's immediate removal from working as a nursing assistant. Certificate Holder shall submit to tests to determine the presence of unauthorized substances immediately upon request by Board staff or Certificate Holder's employer. Certificate Holder shall sign any release of information necessary to ensure the Board will receive the results of such testing. The presence of unauthorized substances may be considered a violation of the terms and conditions of this Order. Upon request of Board staff, Certificate Holder shall obtain an evaluation by a Board approved chemical abuse or dependence evaluator. Certificate Holder understands that Certificate Holder is financially responsible for any and all costs related to testing and evaluating. Certificate Holder's failure to maintain an account in good standing with the Board's laboratory vendor may be considered a violation of this Order.

17. Certificate Holder shall abstain from using alcohol and/or other intoxicating, mind altering, or potentially addictive drugs, including over-the-counter or prescription drugs while on probation, except as provided in Section 18 below. Certificate Holder shall avoid any over-the-counter products and food items containing alcohol and/or poppy seeds.
18. Certificate Holder may take medication for a documented medical condition provided that the medication is from a valid prescription prescribed by a person authorized by law to write such a prescription for the documented medical condition. Certificate Holder shall notify Board staff of any prescription within seventy-two (72) hours of its issuance. Certificate Holder shall sign any release of information necessary to allow Board staff to communicate with the prescribing person and release Certificate Holder's records to the Board. Certificate Holder shall discard any unused prescription medication when no longer needed or when expired.
19. Certificate Holder shall cease performing the duties of a nursing assistant upon the occurrence of a relapse, or at the request of Board staff because of a relapse or relapse behavior. The performance of nursing assistant duties may resume only when approved in writing by Board staff, in consultation with Certificate Holder's employer.
20. Certificate Holder shall notify any and all healthcare providers of the nature of Certificate Holder's chemical dependency to ensure that Certificate Holder's health history is complete before receiving any treatment, including medical and dental. Certificate Holder shall provide a copy of this Order to Certificate Holder's healthcare providers. Certificate Holder shall provide Board staff with the names and contact information of any and all health care providers. Certificate Holder shall sign any release of information necessary to allow Board staff to communicate with Certificate Holder's healthcare providers and release Certificate Holder's medical and treatment records to the Board. Certificate Holder is financially responsible for any costs incurred for compliance with the terms and conditions of this Order.
21. Certificate Holder shall notify Board staff at least three (3) business days prior to leaving town or going on vacation, with the exception of a family emergency.
22. Certificate Holder shall cooperate fully with Board staff in the supervision and investigation of Certificate Holder's compliance with the terms and conditions of this Order.

Certificate Holder understands that the conduct resulting in the violations of law described in this Order 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 understands that in the event Certificate Holder engages in future conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against Certificate Holder's certificate, up to and including revocation of Certificate Holder's certification to perform the duties of a nursing assistant.

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

Certificate Holder understands that by signing this Stipulated Order, Certificate Holder waives the right to an administrative hearing under ORS 183.310 to 183.540. Certificate Holder acknowledges that no promises, representations, duress or coercion have been used to induce Certificate Holder to sign this Order.

Certificate Holder understands that this Order is a document of public record.

Certificate Holder has read this Stipulated Order, understands this Order completely, and freely signs this Stipulated Order for Probation.

IT IS SO AGREED:

Haylie Brocart, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Gary Hickmann, RN
Board President

Date