

**BEFORE THE OREGON  
STATE BOARD OF NURSING**

**In the Matter of**

**Michael Myers, CNA**

**FINAL ORDER**

**Certificate No. 200310964CNA**

**Reference No. 11-02988**

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. Michael Myers (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This Matter was considered by the Board on November 16, 2011. Certificate Holder did not appear personally. The issue for the Board was whether to approve the Stipulation signed by Certificate Holder on October 25, 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 October 25, 2011 be approved and by this reference incorporated herein, and it is further

**ORDERED** that the Board accept the Stipulation for Reprimand with Conditions of Michael Myers' Certified Nursing Assistant certificate and that the Stipulation for Reprimand with Conditions be adopted.

DATED this \_\_\_\_\_ day of November, 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**  
**Michael Myers, CNA** ) **WITH CONDITIONS**  
)  
**Certificate No. 200310964CNA** ) **Reference No. 11-02988**

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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 in the state of Oregon.

Michael Myers (Certificate Holder) is a Certified Nursing Assistant (CNA) in Oregon. Certificate Holder received his Oregon CNA certificate on March 27, 2003.

Certificate Holder came to the Board's attention on May 2, 2011 when the Board received information alleging that Certificate Holder was verbally and physically abusive to a resident at a skilled nursing care facility. On or about May 12, 2011, after an internal investigation, Certificate Holder was terminated from the facility for violating the facility's policy on abuse.

On April 30, 2011 Certificate Holder was providing care to a developmentally disabled resident with limited verbal skills and a history of harming others. The resident began to hit and scratch Certificate Holder. Certificate Holder allegedly held the resident's arms and told the resident that if he were the resident's father, he (Certificate Holder) would spank the resident.

In his response to this allegation, Certificate Holder stated that he did not hold the resident's arms. Certificate Holder said he put his hands up to keep the resident from striking him. Certificate Holder admitted that he made the statement regarding spanking the resident. Certificate Holder said he was using his normal speaking voice when he made the statement, and he did not convey anger in his voice. Certificate Holder said that the statement was not intended as a threat, and he would never strike a resident.

The resident was examined and there were no signs of injury.

Certificate Holder had previously received an informal warning from the Board after making inappropriate comments to a resident in a prior incident.

Certificate Holder received very positive performance evaluations as a CNA. He is described as compassionate, caring and dependable.

The above conduct constitutes a violation of the provisions of ORS 678.442(2)(f) and OAR 851-063-0090(2)(f) 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 851-063-0090 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:

- (2) Conduct related to other federal or state statutes/rule violations:

- (f) Engaging in other unacceptable behavior or verbal abuse towards or in the presence of a client such as using derogatory names or gestures or profane language;

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

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

**That the CNA certificate of Michael Myers be reprimanded with conditions as follows:**

Certificate Holder shall complete a course pertaining to professional boundaries. The course or combination of courses must total at least three continuing education hours. Certificate Holder may utilize in-person training, online training or a combination of learning methods in meeting the conditions of this stipulation. Board staff must be made aware of and approve each course in advance.

Certificate Holder shall provide proof of successful completion of courses within three months of the date of signature on this stipulation, by providing the Board a copy of either a certificate of completion or an official transcript. Certificate Holder is responsible for paying all costs and expenses required for Certificate Holder to comply with these conditions.

Certificate Holder understands that the conduct resulting in the violations of law described in this Stipulation are considered by the Board to be serious in nature and if continued, constitutes a danger to public health and safety.

Certificate Holder understands that in the event he engages in future conduct resulting in violations of law or the Nurse Practice Act, the Board may take further disciplinary action against his certificate, up to and including revocation of his certificate as a nursing assistant.

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, he 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 states no promises, representations, duress or coercion have been used to induce him 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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Michael Myers, CNA

FOR THE OREGON STATE BOARD OF NURSING

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

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Shanon Rahimi  
Investigator  
Investigation Department