

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of

Sergio Gonzalez, CNA

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) **FINAL ORDER BY DEFAULT**

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Certificate No. 201113288CNA

) **Reference No. 13-00482**

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. Sergio Gonzalez (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This matter was considered by the Board at a Board meeting in Portland, Oregon on January 16, 2013. Certificate Holder did not appear personally.

On November 19, 2012, a Notice stating that the Board intended to revoke the nursing assistant certificate of Certificate Holder was sent to Certificate Holder via certified and first-class mail to his address of record. The Notice alleged that Certificate Holder did not follow a care plan and abused a patient by not following proper restraint techniques in restraining a patient who was not physically aggressive.

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 its records and files 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 issued a Certified Nursing Assistant certificate in the state of Oregon on December 23, 2011.

1.2 On August 30, 2012, the Board received a report that on or about July 10, 2012, Certificate Holder physically abused a patient by not following proper Professional Assault Crisis Training physical restraint techniques.

1.3 In an interview with Board staff Certificate Holder acknowledged that he failed to follow the Registered Nurse's direction to disengage with the patient who was being verbally but not physically abusive. Certificate Holder acted against the patient's plan of care.

1.4 A Department of Human Services investigative report of the incident substantiated that abuse occurred. The report indicated that video footage substantiated that the patient was not physically aggressive toward Certificate Holder.

1.5 On November 19, 2012, Board staff mailed a Notice of Proposed Revocation of Certified Nursing Assistant Certificate to Certificate Holder via first-class and certified mail. The Notice granted Certificate Holder 20 days from the date of the mailing of the Notice to request a hearing. The Notice also designated that the agency file would be the record for purposes of default.

II

CONCLUSIONS OF LAW

2.1 That the Board has jurisdiction over the Certificate Holder, Sergio Gonzalez, and over the subject matter of this proceeding.

2.2 That the above conduct constitutes a danger to public health and safety, and by the above actions Certificate Holder is subject to discipline pursuant to violations of ORS 678.442 (2) (f); OAR 851-063-0030 (6) (d) and (f) and (j); OAR 851-063-0080 (6); and OAR 851-063-0090 (2) (d) and (6) (a).

2.3 That Certificate Holder did not request a hearing within the allotted timeframe and thereby is in default on the Notice. Pursuant to ORS 183.417 (3), the Board may enter a Final Order by Default.

III

ORDER

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

ORDERED that the nursing assistant certificate of Sergio Gonzalez is revoked.

According to OAR 851-001-0015 Certificate Holder will be eligible for reinstatement after three years. Certificate Holder shall appear before 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 January, 2013

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.