

**BEFORE THE BOARD OF NURSING
OF THE STATE OF OREGON**

In the Matter of)	FINAL ORDER
)	BY DEFAULT
)	
Morgan Anne Shaw)	
)	
Certificate No: 200612501CNA)	Case No: 09C-124

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. Morgan Anne. Shaw (Certificate Holder) is a Certified Nursing Assistant in the State of Oregon.

This matter was considered by the Oregon State Board of Nursing at an interim meeting in Portland, Oregon on October 13, 2010. On September 20, 2010 a Notice stating that the Board intended to revoke the Certified Nursing Assistant certificate of Morgan Anne Shaw was sent to the Certificate Holder by registered and certified mail to her address of record. This Notice alleged that the Certificate Holder failed to comply with the terms and conditions of a Board Order. The Notice further granted to the 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**

Ms. Shaw obtained her CNA certificate by examination on November 16, 2006.

II

On or about November 20, 2009, Ms. Shaw submitted an on line renewal application. You answered “no” to the following question:

- Q2: “Since the date of your last renewal, have you been arrested, charged with, entered a plea of guilty, no contest, convicted of or been sentenced for any criminal offense either misdemeanor or felony, including driving under the influence in any state?”

III

Ms. Shaw certified her answer to be true and accurate to the best of her knowledge. However, a routine criminal background check revealed that she was arrested on September 27, 2008 for Driving under the Influence of Intoxicants, a misdemeanor offense under Oregon law. Ms. Shaw pled no contest to the charge on October 22, 2008 and she entered a diversionary program, which, if successfully completed, would have resulted in the charge being dismissed. On October 23, 2009, your diversion was extended to April 19, 2010.

IV

Ms. Shaw later gave the following explanation for answering “no” to the arrest question: “The reason why I did not enclose the information on my renewal for my license was I honestly had not attended court and did not think it was on my record at the time.” However, she pled no contest to the charge and entered diversion prior to filling out the on line renewal application.

V

Ms. Shaw had also been court-ordered to undergo an alcohol & drug evaluation. She provided the Board with the evaluation. Ms Shaw was diagnosed with Amphetamine Dependence, Alcohol Dependence and Cannabis Abuse on August 17, 2009. Her initial UA and her October 6, 2009 UA both came back positive for Methamphetamine. Ms. Shaw's subsequent UA's have been negative.

VI

On March 10, 2010, the Board placed Ms. Shaw on 24 months of Probation. She was unemployed. On April 13, 2010, Ms. Shaw began complying with her Board Order by applying to and calling into the lab to submit to random, monthly UAs. Daily lab check-ins ceased on May 9, 2010 except for a UA that was submitted on May 12, 2010 that later turned up positive for a low level of Morphine.

VII

Board staff contacted Ms. Shaw regarding the missed lab calls and positive UA. She stated that she is not employed and though she has been searching for a job, the inability to work in DHS facilities has made it even more of a challenge. Ms. Shaw stated that she had no idea how Morphine could have showed up in her UA. She went on to say that the only thing it may be attributed to may be the poppy seed muffins she ingests for breakfast every morning. Ms. Shaw requested to have the UA retested until she realized that the cost was prohibitive for her right now. After some thought, Ms. Shaw stated that she had no plans on continuing as a CNA and wished to Voluntarily Surrender her Certificate.

VIII

On June 1, 2010, Board staff mailed Ms. Shaw a Stipulation for Voluntary Surrender as she had requested, with a letter instructing her to sign it and return it to Board staff no later than June 15, 2010. To date it has never been received and all subsequent contact with Board staff has ceased.

IX

On September 15, 2010 the Board voted to notice Ms. Shaw for Proposed Revocation. On September 20, 2010, a copy of the Notice of Proposed Revocation was mailed by certified and regular mail to Ms. Shaw to her address of record. The Notice granted to the Certificate Holder an opportunity for hearing, if requested within the 20 days of mailing the Notice, (October 6, 2010.) 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.

X

CONCLUSIONS OF LAW

The Board has jurisdiction over the Certificate Holder, Morgan Anne Shaw, and over the subject matter at this proceeding.

The aforementioned is grounds for discipline pursuant to ORS 678.442 (2) (f), OAR 851-063-080 (6), OAR 851-063-090 (9) (d).

That CNA defaulted on the Notice by not requesting a hearing within the allotted 20 days and as a result, pursuant to ORS 183.310 to 183.550, the Board may enter a Final Order by Default.

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 851-063-080 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 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 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:

- (9) Conduct related to the certificate holder's relationship with the Board:
- (d) Violating the terms and conditions of a Board Order.

XI

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

ORDERED that Morgan Anne Shaw's nursing assistant certificate in the State of Oregon be revoked.

Dated this _____ day of October, 2010

[SIGNATURE & DATED COPY ON FILE IN BOARD OFFICE]
For the Board of Nursing of the State of Oregon

Patricia Markesino, RN
Board President

To Morgan Anne Shaw:

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 the 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 service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.