

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Jennifer Stalker) **PROBATION OF NURSING ASSISTANT**
) **CERTIFICATE**
)
CNA Applicant) **Reference No. 17-01484**

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 and Nursing Assistant certificate applicants. In December 2016, the Board received a Nursing Assistant certificate endorsement application from Jennifer Stalker (Applicant).

Applicant recently informed the Board that she has been clean and sober since December 23, 2014; however, she abused controlled substances prior to that date. Upon a review of a recent chemical dependency evaluation with Board staff, Applicant agrees that a period of probation is appropriate.

By the above actions, Applicant is subject to discipline pursuant to ORS 678.442(2)(d) and OAR 851-063-0080(3), (4), (6) and OAR 851-063-0090(7)(c) 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:

(d) Violation of any provisions of ORS 678.010 to 678.445 or rules adopted thereunder.

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:

(3) Use of any controlled substance or intoxicating liquor to an extent or in a manner injurious to the certificate holder or others or to an extent that such use impairs the ability to conduct safely the duties of a nursing assistant;

(4) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder;

(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.

Applicant admits that the above allegations occurred and constitute violations of the Nurse Practice Act. Applicant 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 Applicant:

Applicant shall be placed on probation effective the date the Board approves this Stipulated Order for Probation. Applicant's compliance with this Stipulated Order will be monitored by the Oregon State Board of Nursing from date of signature on the Stipulated Order. Applicant must complete a twenty-four (24) month period of probation to begin upon Applicant's return to work, monitored as outlined below. Applicant must work a minimum of sixteen (16) hours per week, and no more than a maximum of one (1.0) FTE. Applicant must work in a setting where Applicant can exercise the full extent of Applicant's scope of duties, in order to demonstrate Applicant's competence. Limited overtime may be approved on occasion, at the discretion of Board staff.

Applicant shall comply with the following terms and conditions of probation:

1. Applicant shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. Applicant shall have thirty-six (36) months from Board's acceptance of this Stipulated Order to complete twenty-four (24) months of monitored practice.
3. Applicant shall notify Board staff, in writing, prior to any change of address or employment setting during the probation period.
4. Applicant shall maintain active certification.
5. Applicant shall inform Board staff in advance of any absences from Oregon and/or any move from Oregon to another licensing jurisdiction. If Applicant leaves the state and is unable to work in the state of Oregon, Applicant's probationary status will be re-evaluated.
6. Applicant 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. Applicant 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. Applicant 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. Applicant shall inform current and prospective employers, including any Nurse Executive, of the probationary status of Applicant's certification, the reasons for probation, and terms and conditions of probation. If Applicant's employer has a Nurse Executive, Applicant shall inform Board staff of the name of the Nurse Executive and Board staff will provide the Nurse Executive with a copy this Stipulated Order.
10. Applicant shall work under the direct observation of another licensed healthcare professional, functioning at a higher level of licensure who is aware that the individual is on probation, who is working in the same physical location (e.g. clinic, unit, building, etc.), is readily available to observe Applicant's work and provide assistance and who has taken the required Board approved Monitor/Supervisor training. Applicant shall be employed in a setting where Applicant's 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, Applicant may be restricted from performing the duties of a nursing assistant.
11. Between quarterly reporting periods, the Nurse Executive or a person designated by Applicant's employer shall inform Board staff of any instance of Applicant's non-compliance with the terms and conditions of this Stipulated Order or of any other concern regarding Applicant's work-related conduct or personal behavior that may affect Applicant's ability to perform the duties of a nursing assistant.
12. Applicant shall notify Board staff when there is a change in status of employment, including resignations and terminations.
13. Applicant shall not have access to narcotics and controlled substances, carry the keys to narcotics storage, or administer narcotics at any time or under any circumstances or until Applicant receives written approval from Board staff.
14. Applicant shall not work in any work setting when on-site monitoring 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.
15. Applicant shall not be allowed to participate in the CNA2 training pursuant to Division 62 of the Oregon Administrative Rules.
16. Applicant 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, Applicant shall submit to Board staff a copy of Applicant's completion certificate or discharge summary. Applicant shall attend Narcotics Anonymous (NA), Alcoholics Anonymous (AA) or similar recovery program on a weekly basis and provide

proof of attendance to Board staff. Applicant shall sign any release of information necessary to allow Board staff to communicate with Applicant's treatment provider and release Applicant's treatment records to the Board.

17. Applicant 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 Applicant's immediate removal from working as a nursing assistant. Applicant shall submit to observed tests to determine the presence of unauthorized substances immediately upon request by Board staff or Applicant's employer. Applicant 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 Stipulated Order. Upon request of Board staff, Applicant shall obtain an evaluation by a Board approved chemical abuse or dependence evaluator. Applicant understands that Applicant is financially responsible for any and all costs related to testing and evaluating. Applicant's failure to maintain an account in good standing with the Board's laboratory vendor may be considered a violation of this Stipulated Order.
18. Applicant 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 19** below. Applicant shall avoid any over-the-counter products and food items containing alcohol and/or poppy seeds.
19. Applicant 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. Applicant shall notify Board staff of any prescription within seventy-two (72) hours of its issuance. Applicant shall sign any release of information necessary to allow Board staff to communicate with the prescribing person and release Applicant's records to the Board. Applicant shall discard any unused prescription medication when no longer needed or when expired.
20. Applicant 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 Applicant's employer.
21. Applicant shall notify any and all healthcare providers of the nature of Applicant's chemical dependency to ensure that Applicant's health history is complete before receiving any treatment, including medical and dental. Applicant shall provide Board staff with the names and contact information of any and all health care providers. Applicant shall sign any release of information necessary to allow Board staff to communicate with Applicant's healthcare providers and release Applicant's medical and treatment records to the Board. Applicant is financially responsible for any costs incurred for compliance with the terms and conditions of this Stipulated Order.
22. Applicant 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.

23. Applicant shall cooperate fully with Board staff in the supervision and investigation of Applicant's compliance with the terms and conditions of this Stipulated Order.

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

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

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

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

Applicant understands that this Stipulated Order is a document of public record.

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

IT IS SO AGREED:

Jennifer Stalker

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Colin Hunter, JD
Board President

Date