

**BEFORE THE OREGON
STATE BOARD OF NURSING**

In the Matter of) **STIPULATED ORDER FOR**
Eldon Acord, CNA) **PROBATION**
)
Certificate No. 200212884CNA) **Reference No. 16-01414**

Eldon Acord (CNA) was issued a Certified Nursing Assistant certificate by the Oregon State Board of Nursing (Board) on October 28, 2002.

On or about March 9, 2016, the Board received information that CNA was physically abusive toward a resident of the care facility where CNA was employed. The Board opened an investigation.

Board staff learned that on February 27, 2016, CNA was asked by a co-worker to assist with providing care for a resident. The resident resisted CNA's assistance. CNA used unnecessary force while moving the resident, resulting in a skin tear to the resident's forearm.

By the above actions, CNA is subject to discipline pursuant to ORS 678.442(2)(f), OAR 851-063-0080(6) and 851-063-0090(2)(a), (3)(a), and (8)(d) which read 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:

(2) Conduct related to achieving and maintaining clinical competency:

(a) Failing to conform to the essential standards of acceptable and prevailing nursing assistant performance of duties. Actual injury need not be established;

(3) Conduct related to client safety and integrity:

(a) Failing to take action to preserve or promote a person's safety based on nursing assistant knowledge, skills, and abilities;

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

(d) Abusing a person.

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

CNA shall be placed on probation effective the date the Board approves this Stipulated Order for Probation. CNA must complete the training requirements and all other conditions of this Order. CNA's compliance with this Order will be monitored by the Oregon State Board of Nursing. CNA must complete a twelve (12) month period of probation to begin upon CNA's return to work, monitored as outlined below. CNA must work a minimum of sixteen (16) hours per week, and no more than a maximum of one (1.0) FTE. CNA must work in a setting where CNA can exercise the full extent of CNA's scope of duties, in order to demonstrate CNA's competence. Limited overtime may be approved on occasion, at the discretion of Board staff.

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

1. CNA shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
2. CNA shall have twenty-four (24) months from Board's acceptance of this Order to complete twelve (12) months of monitored practice.
3. CNA shall notify Board staff, in writing, prior to any change of address or employment setting during the probation period.
4. CNA shall maintain active certification.

5. CNA shall complete the following training within sixty (60) days of this Order. These online courses from Oregon Care Partners are pre-approved: (1) Handling Difficult Situations & Behaviors; (2) Understanding Behaviors: Considerations for Client Rights; (3) Understanding Behaviors: Prevention through Acceptance & Communication; and (4) Understanding Behaviors: Intervention and Follow up. If any other course is to be substituted, the course must be pre-approved by Board staff. CNA shall provide proof of completion of each course either through certificates of completion or transcripts, within sixty (60) days of this Order. Failure to complete these course during the period of probation may result in additional disciplinary action by the Board for failing to comply with a Board Order.
6. CNA shall inform Board staff in advance of any absences from Oregon and/or any move from Oregon to another licensing jurisdiction. If CNA leaves the state and is unable to work in the state of Oregon, CNA's probationary status will be re-evaluated.
7. CNA 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.
8. CNA 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.
9. CNA 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.
10. CNA shall inform current and prospective employers, including any Nurse Executive, of the probationary status of CNA's certification, the reasons for probation, and terms and conditions of probation. If CNA's employer has a Nurse Executive, CNA shall inform Board staff of the name of the Nurse Executive and Board staff will provide the Nurse Executive with a copy this Order.
11. CNA shall work under the direct supervision of another licensed healthcare professional, functioning at the same or higher level of licensure, who is working in the same physical location and readily available to observe CNA's work and provide assistance. CNA shall be employed in a setting where CNA'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, CNA may be restricted from performing the duties of a nursing assistant.

12. Between quarterly reporting periods, the Nurse Executive or a person designated by CNA's employer shall inform Board staff of any instance of CNA's non-compliance with the terms and conditions of this Order or of any other concern regarding CNA's work-related conduct or personal behavior that may affect CNA's ability to perform the duties of a nursing assistant.
13. CNA shall notify Board staff when there is a change in status of employment, including resignations and terminations.
14. CNA 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.
15. CNA shall not be allowed to participate in the CNA2 training pursuant to Division 62 of the Oregon Administrative Rules.
16. CNA shall cease performing the duties of a nursing assistant if there are concerns about his ability to safely perform his duties or at the request of Board staff. The performance of nursing assistant duties may resume only when approved in writing by Board staff, in consultation with CNA's employer.
17. CNA 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.
18. CNA shall cooperate fully with Board staff in the supervision and investigation of CNA's compliance with the terms and conditions of this Order.

CNA 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.

CNA 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 CNA's certificate, up to and including revocation of his certification to perform the duties of a nursing assistant.

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

CNA understands that by signing this Stipulated Order, CNA waives the right to an

administrative hearing under ORS 183.310 to 183.540. CNA acknowledges that no promises, representations, duress or coercion have been used to induce CNA to sign this Order.

CNA understands that this Order is a document of public record.

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

IT IS SO AGREED:

Eldon Acord, CNA

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Bonnie Kostelecky, MS, MPA, RN
Board President

Date