

Disciplinary Sanctions for Patient Abandonment

The Oregon State Board of Nursing, in keeping with its mission to protect the public health, safety and welfare, believes it is important to take a strong position regarding the licensure and certification of individuals who have abandoned a patient assignment. (Also see OSBN Policy Statement on Patient Abandonment.)

The Board's position applies to Certified Nursing Assistants, Certified Medication Aides, Licensed Practical Nurses, Registered Nurses, Nurse Practitioners, Clinical Nurse Specialists and Certified Registered Nurse Anesthetists (all hereafter referred to as "nurse/nursing assistant").

The Board adopts the following assumptions as the basis for its position:

1. Patients* under the care of a nurse/nursing assistant are vulnerable by virtue of illness or injury and the dependent nature of the nurse/nursing assistant-patient relationship.
2. Persons who are especially vulnerable include the elderly, children, the mentally ill, sedated and anesthetized patients, those whose mental or cognitive ability is compromised, and patients who are disabled or immobilized.
3. Nurses/nursing assistants frequently provide care in private homes or homelike settings, where the patient is totally dependent on the nurse/nursing assistant for care.
4. Nurses/nursing assistants frequently provide care in settings without direct supervision.
5. A core tenet of nursing is to behave in a manner that preserves and protects the patient's health, safety and well being.
6. Patients have the right to expect that a nurse/nursing assistant who agrees to a patient care assignment will follow through with that commitment.

*The terms "resident" or "client" are often substituted for the term "patient" in healthcare facilities. For the purposes of this document, "patient" includes all of these terms.

Patient Abandonment

The Board's position on patient abandonment applies to all nurses/nursing assistants, regardless of their role, from nurses/nursing assistants who provide direct patient care, to licensed nurses who are consultants, supervisors, administrators, volunteers and others who practice independently. The Board will hold licensed nurses (Licensed Practical Nurses, Registered Nurses, Nurse Practitioners, Certified Registered Nurse Anesthetists and Clinical Nurse Specialists) to a higher standard of conduct regarding their commitment to complete a patient care assignment. The Board believes that a patient's well being is placed at greater risk if a licensed nurse abandons patient care responsibilities than if a Certified Nursing Assistant (CNA) were to do the same, except in a situation where the CNA is the sole care provider for the patient.

The Board views all patient abandonment as serious. However, not all patient abandonment situations are grounds for disciplinary action. The Board believes that sanctions should be imposed for situations that place patients at risk for harm, or when harm has resulted because the nurse/nursing assistant abandoned a patient care assignment. The focus for disciplinary sanction is on the relationship or responsibility of the nurse/nursing assistant to the patient. Where the nurse/nursing assistant is the only assigned care provider, such as in a private home or homelike setting, abandonment is the most serious because there is no one else to provide the care, the patient is dependent, vulnerable for harm and lack of care may go unnoticed for hours. Abandonment in a setting where there are other nurses/nursing assistants available, and where resources can be shifted to meet patient care needs, is less serious.

Oregon State Board of Nursing Disciplinary Policy Statement

There are a number of situations that some members of the nursing community have traditionally believed are patient abandonment, ranging from termination of employment without notice to leaving a patient care assignment in the midst of that assignment. The Board believes that many of these scenarios are employment rather than nursing regulatory issues and do not constitute patient abandonment under the Board's rules or by Board policy. To illustrate, the Board believes that:

- ◆ Resignation from employment without notification, assuming the previously agreed-upon patient care assignment has been completed, is not patient abandonment but is an employment issue.
- ◆ Refusal to stay and work an additional shift (double shift) is not patient abandonment, and is an employment rather than a nursing regulatory issue.
- ◆ Refusal to float to an unfamiliar unit is not patient abandonment, but is an employment issue. However, the Board believes that the employer has a responsibility to clearly identify the expected patient care responsibilities to the floating nurse/nursing assistant, as there is a great difference between an expectation that the nurse/nursing assistant will carry a full patient assignment versus an expectation that the nurse/nursing assistant will be an "extra body" to assist licensed nurses who are familiar with the unit and its patients.
- ◆ Failure to notify the supervisor of the nurse/nursing assistant's intent to leave, and leaving in the midst of a patient care assignment without the supervisor's knowledge, is patient abandonment.
- ◆ Sleeping on the job, which has the effect of being unavailable to observe the patient or respond to the patient's needs, is patient abandonment even though the nurse/nursing assistant is physically present.
- ◆ Failure to report for a patient assignment, or leaving in the midst of a patient care assignment when the nurse/nursing assistant is the sole care provider, or the licensed nurse is a consultant or supervisor in a home or homelike situation, is patient abandonment.

Disciplinary Sanctions

Complaints of patient abandonment which are determined to be employment issues will not be investigated by the Board. However, advice will be given to both the nurse/nursing assistant and the employer of the nurse/nursing assistant in regards to alternative solutions to similar situations in the future.

The Board recognizes that nurses/nursing assistants are sometimes placed in patient care situations where the nurse/nursing assistant becomes frustrated due to lack of resources, requests to work double shifts, variable work hours, short staffing, or heavy patient assignments. If a nurse/nursing assistant in this situation leaves mid-shift, the Board will use the investigative process as an education and problem solving opportunity, with an assessment of the nurse/nursing assistant's attempts to improve the work environment and attitude towards the abandonment. For the first instance of patient abandonment, unless the nurse/nursing assistant is the sole care provider, education and assistance with problem solving for future situations may be sufficient. In such situations, the Board may send a letter of concern to the employer of the nurse/nursing assistant.

Repeated instances of patient abandonment, or blatant acts which do not involve obvious workplace issues as described above, may result in disciplinary action.

Oregon State Board of Nursing Disciplinary Policy Statement

In situations where the nurse/nursing assistant is the sole care provider, such as in a private home or homelike setting, patient abandonment is very serious and may result in discipline. The Board will consider the following factors in determining the level of discipline:

- ◆ the extent of dependency or disability of the patient;
- ◆ stability of the patient;
- ◆ the length of time the patient was deprived of care;
- ◆ the effect on the patient due to lack of care;
- ◆ any harm to the patient;
- ◆ steps taken by the nurse/nursing assistant to notify the patient of the inability to provide care; and
- ◆ a history of previous patient abandonment.

Abandonment of a highly unstable patient, a negative outcome (death or injury), or a history of previous instances of patient abandonment will result in the disciplinary sanctions at the level of suspension or revocation of the license or certificate.

An applicant for licensure or certification who is known to have abandoned a person while fulfilling a caregiver role will be reviewed by the Board to evaluate whether the applicant is at risk for patient abandonment. The license or certificate may be denied. The Board will use the factors described above to make its decision.

Petition for Reinstatement of License or Certificate

A person whose license or certificate has been suspended or revoked has the right to petition the Board for reinstatement of licensure or certification. The burden of proof that the person does not pose a danger for future patient abandonment remains with the petitioner.

Adopted: September 1998

Amended: 11/98, 6/99 and 6/05