

Disciplinary Policy

Disciplinary Sanctions for Theft, Fraud and Deception

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 position regarding the licensure and certification of persons who have stolen or misappropriated property, money or other possessions from patients, who have engaged in fraudulent behavior towards patients or who have been convicted of a crime of theft or deception to an extent that such conduct may affect the ability to safely care for patients.

The Board's position applies to Certified Nursing Assistants, Certified Medication Aides, Licensed Practical Nurses, Registered Nurses, Nurse Practitioners, Certified Registered Nurse Anesthetists and applicants for licensure or certification (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 or 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 may 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) Patients frequently bring valuables (money, jewelry, items of sentimental value, checkbook, or credit cards) with them to a health care facility.
- 4) Nurses and nursing assistants frequently provide care in private homes and home like settings where all of the patient's property and valuables are accessible to the nurse/nursing assistant.
- 5) Nurses and nursing assistants frequently provide care in settings without direct supervision.
- 6) Theft from a patient raises serious concerns whether the nurse/nursing assistant can be trusted to respect a patient's property/possessions in the future.
- 7) Theft or deception which occurs outside of the workplace, including conviction of a crime, may raise concerns as to whether the same misconduct will be repeated in the workplace and therefore place patients at risk for theft and deception.

* The terms "resident" or "client" are often used in place of "patient" in health care facilities. In this document, "patient" includes all of these terms.

Crimes Related To Theft, Fraud and Deception

The Board understands that it may not rely solely on the conviction of a crime to deny, suspend or revoke a license or certificate. However, the evidence of the conduct which is the basis for the conviction may be of concern to the Board.

Conviction of a crime involving theft, fraud or deception is a concern to the Board but does not in and of itself disqualify a person from licensure or certification. The magnitude of the theft is not the major factor the Board will consider. Factors related to the crime which would concern the Board the most are evidence of premeditation, lack of remorse or insight regarding the conduct and failure to pay restitution. The presence of these factors is evidence to the Board that the likelihood of the same behavior being repeated is great enough that patients may be at risk for the same conduct. Acts of an impulsive nature where there is insight/remorse regarding the conduct may be mitigating factors for the Board to consider. Conviction of theft, fraud or deception will be evaluated on an individual basis considering the foregoing factors.

Theft from a Patient

Theft from a patient, engaging in fraud or deceit with a patient is never acceptable. Theft of patient money, property, valuables or items of sentimental value is grounds for suspension or revocation of licensure and certification. A license or certificate may be denied if the applicant engaged in theft while functioning in the role of a caregiver. Other fraudulent conduct or deception towards a patient is unacceptable, but not necessarily a disqualification from licensure or certification. These cases will be considered on an individual basis and may be disciplined at a level less than revocation or may be warned following a thorough investigation. Factors such as insight, remorse and premeditation will be considered as to whether a disciplinary sanction is imposed. The Board believes that employers of nurses and nursing assistants have the responsibility to have safeguards in place to ensure that patients are not subjected to acts of theft, fraud or deception.

Theft from the Workplace

Theft is an intentional act regardless who is the victim of the theft. The Board's position on theft from an employer is not as strong as its position on theft from a patient. However, if a nurse/nursing assistant engages in theft, fraud or deception toward his/her employer, there is the possibility that the nurse/nursing assistant will also engage in the same behavior towards patients. The Board will consider the factors of premeditation, remorse and restitution as well as the steps taken by the employer toward the nurse/nursing assistant in deciding whether or not discipline should be imposed.

Identity Theft

The Board recognizes the increasing occurrence of identity theft and believes this to be a serious concern. This type of theft is particularly egregious as it indicates a premeditation to deceive both patient and employer as to the person's true identity as well as their education and experience as a nurse. This places the unsuspecting public at significant risk and will not be tolerated by the Board. Using another person's identity, including their social security number, in order to gain licensure, certification, or employment will result in disciplinary action.

Petition for Reconsideration or Reinstatement

A person who has been denied licensure or certification or whose license or certificate has been revoked by Final Order of the Board has the right to petition the Board for reconsideration or reinstatement. The burden of proof that the person does not pose a danger for theft, fraud or deception toward patients remains with the petitioner.

Adopted: June 19, 1997

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