

Patient Abandonment

Statement of Purpose

To provide clarification on the frequently used term patient abandonment. This statement is applicable to all OSBN licensees and certificate holders as described.

Definition of Patient Abandonment:

For the purposes of this statement the term “patient” will be used interchangeably and have the same meaning as “client.” Patient can be a single patient or a group of patients.

For the purposes of this statement the term “nursing personnel” refers to all licensees (RN, LPN, NP, CNS, CRNA) and certificate holders (CNA, CMA) of the OSBN.

Board Statement

Patients under the care of nursing personnel are vulnerable by the virtue of social determinants of health, including the dependent nature and unequal power base of the relationship the patient has with nursing personnel. There is a distinction between nursing personnel leaving an employment situation and when abandoning a duty to the patient

The key component in determining if an action constitutes patient abandonment is the establishment of a relationship between nursing personnel and the patient. Once that relationship is established, the jurisdiction of the Board allows for investigation and possible use disciplinary actions as described in ORS 678.111 and ORS 678.442. An employer holds no authority to discipline a license or certificate; however, the employer does have the ability to determine employment discipline of nursing personnel.

Two criteria must be met for the action to be patient abandonment:

- (1) Nursing personnel must accept a patient assignment thereby agreeing to provide care and thereby establishing a relationship with the patient or group of patients.

- (2) Nursing personnel have disengaged themselves from the above established relationship without communicating reasonable notice and information about the patient or group of patients to a qualified person A qualified person is defined as nursing personnel or other health professional who can continue to care for the patient or make arrangements for others to continue the care of the patient. In a setting where there exists no other nursing personnel or licensed health professional who can continue to care for the patient or make arrangements for others to continue the care of the patient, a qualified person is defined as a health care team member who holds the authority to make arrangements for others to continue the care of the patient. Review OAR 851-006-0000(59) for definition of “Health Care Team.”

Refusal to accept an assignment or establish a care relationship with the patient or patients does not constitute

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patient abandonment. Such refusal may constitute employment abandonment and would then fall under the employer/employee relationship.

The following are examples of patient abandonment:

1. Leaving a nursing unit or patient care setting without providing notice and a report of the patient(s) current status to a qualified person.
2. Leaving a workplace when the licensee or certificate holder is the sole provider at their level of license or certification and there is no available replacement at the level of licensure or certification (such as private duty, home health, hospice, etc.).
3. Failure to report for an assignment when the licensee or certificate holder is the sole provider (such as private duty, home health, hospice, etc.) without notice to a qualified person.
4. Terminating a contractual or other relationship in which the licensee or certificate holder is the primary or sole provider of care without notice to the patient (s) and/or other person(s) acting on behalf of the patient to make other arrangements.

The responsibility of all nursing personnel licensed by the OSBN is to assure that patients and nursing personnel are not placed in a situation of serious risk when accepting an assignment or engaged in a patient care relationship. If nursing personnel cite a lack of knowledge, skills, competencies or abilities to accept or continue with a patient care relationship, the licensee or certificate holder is required by the Oregon Nurse Practice Act to refuse the assignment. It is an expectation of the Board that nursing personnel are able to articulate the rationale as to why an assignment may put both nursing personnel and patient(s) in a serious risk for harm situation. This does not prevent the employer from taking employment actions against nursing personnel.

The following scenarios do not fall in the category of patient abandonment but may be considered by the employer as employment abandonment:

1. Nursing personnel fail to notify employer and does not appear for scheduled work hours (Note: This does not apply to sole providers such as private duty, home health, hospice, etc).
2. Nursing personnel immediately end the employment relationship with an employer once the duties to the patient have been completed.
3. Nursing personnel fail to return for scheduled work hours following a scheduled leave of absence and without notice.
4. Nursing personnel resign and fail to provide the amount of notice required by employer policy.

Employers have no legal authority to threaten action against someone's license or certificate as a means of intimidation to coerce the acceptance of additional work hours or assignment by nursing personnel. The employer may choose to begin employment action against nursing personnel per their policies.

During periods of time when there is insufficient nursing personnel to assure mitigation of risk to both personnel and patient (s), it is expected that licensees and certificate holders of the OSBN work with management staff to assure that all resources are employed prior to ending an assignment or care relationship. The Oregon Nurse Staffing Laws are not under the jurisdiction of the OSBN. These laws come

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under the jurisdiction of the Oregon Health Authority (OHA). OSBN and OHA exchange information regarding appropriate investigation jurisdiction.

Oregon Nursing Facility RN and CAN staffing laws are not under the jurisdiction of OSBN. These laws come under the jurisdiction of the Oregon Department of Human Services (DHS). OSBN and DHS exchange information regarding appropriate investigation jurisdiction.

Advanced Practice Registered Nurses

In addition to the above, the following applies to the clinical nurse specialist, certified registered nurse anesthetist and nurse practitioner (advanced practice nurse).

The legitimate discharge of a patient or patients from practice when the advanced practice nurse is that patient's primary or specialty provider does not constitute patient abandonment provided the discharge includes the following:

- Provision of written notice which meets community standard and clearly states the date of termination of services;
- Information regarding how the patient can access their records of care;
- Information regarding referral options for continuing care for the condition treated; and,
- Provision of currently authorized medications that are prescribed by the advanced practice nurse for a limited refill period that is specified in the notice of discharge of the patient from practice.

References: Oregon Nurse Practice Act

Authority for Approval: ORS 678

History of Document: Originally adopted September 10, 1993; Revised September 15, 1999; Amended to add the Advanced Practice Registered Nurse November 17, 2005; Revised and formatted to Interpretive Statement December 17, 2015, Updated September 2020.

The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of policies and interpretive statements, which are advisory in nature and used as guidelines for safe nursing practice.