

**BEFORE THE OREGON
STATE BOARD OF NURSING**

**In the Matter of
Edward Yoder, RN**

**) STIPULATED ORDER FOR 90 DAY
) SUSPENSION OF RN LICENSE
) FOLLOWED BY PROBATION**

License No. 096003120RN

) Reference No. 14-00367

The Oregon State Board of Nursing (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including Registered Nurses. Edward Yoder (Licensee) was issued a registered nurse license by the Board on February 12, 1997.

On or about September 19, 2013, the Board received information that Licensee failed to investigate, document, and report the alleged sexual assault of patients in the Legacy Emanuel Medical Center Emergency Department to the Board. The Board opened an investigation in the matter.

Licensee is the manager of the Legacy Emanuel Medical Center Emergency Department. As a nurse manager, it is Licensee's responsibility to thoroughly investigate, document, and report concerns regarding the conduct of registered nurses in the Emergency Department.

Through the Board's investigation process, the Board determined Licensee failed to thoroughly investigate and document multiple allegations of misconduct involving multiple registered nurses over which the Licensee had managerial responsibilities.

Through the Board's investigation process, the Board determined Licensee failed to thoroughly investigate and document the above allegations of misconduct involving patients by Licensee's staff. In addition, Licensee failed to adhere to the Board's reporting requirements regarding unsafe nursing practice in the above incidents.

By the above actions, Licensee is subject to discipline pursuant to ORS 678.111 (1)(f) and (g) and ORS 678.135 (1), and OAR 851-045-0070 (1)(b), (g), and (k) and (2)(d) and (4)(b), and OAR 851-045-0090(3), and (5)(c), and (6)(f),(g) and (k), which read as follows:

ORS 678.111 Causes for denial, revocation or suspension of license or probation, reprimand or censure of licensee.

In the manner prescribed in ORS chapter 183 for a contested case:

(1) Issuance of the license to practice nursing, whether by examination or by indorsement, of any person may be refused or the license may be revoked or suspended or the licensee may be placed on probation for a period specified by the Oregon State Board of Nursing and subject to such condition as the board may impose or may be issued a limited license or may be reprimanded or censured by the board, for any of the following causes:

(f) Conduct derogatory to the standards of nursing.

(g) Violation of any provision of ORS 678.010 to 678.445 or rules adopted thereunder.

ORS 678.135 Duty to report violations.

(1) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, any health care facility licensed as required by ORS 441.015, or any person licensed by the

Oregon State Board of Nursing, shall report to the board any suspected violation of ORS 678.010 to 678.410 or any rule adopted by the board.

OAR 851-045-0070 Conduct Derogatory to the Standards of Nursing Defined

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

- (1) Conduct related to the client's safety and integrity:
 - (b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment.
 - (g) Failing to supervise persons to whom nursing tasks have been assigned.
 - (k) Failing to report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider.
- (2) Conduct related to other federal or state statute/rule violations:
- (d) Failing to report actual or suspected incidents of client abuse through the proper channels in the work place and to the appropriate state agencies.
- (4) Conduct related to achieving and maintaining clinical competency:
- (b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established.

OAR 851-045-0090 Mandatory Reporting Defined

(3) Anyone knowing of a licensed nurse whose behavior or nursing practice fails to meet accepted standards for the level at which the nurse is licensed, shall report the nurse to the person in the work setting who has authority to institute corrective action. Anyone who has knowledge or concern that the nurse's behavior or practice presents a potential for, or actual danger to the public health, safety and welfare, shall report or cause a report to be made to the Board of Nursing. Failure of any licensed nurse to comply with this reporting requirement may in itself constitute a violation of nursing standards.

(5) The decision to report a suspected violation of ORS Chapter 678, or the rules adopted within, shall be based on, but not limited to, the following:

- (c) The magnitude of any single occurrence for actual or potential harm to the public health, safety and welfare.
- (6) The following shall always be reported to the Board of Nursing:
- (f) Client abuse;
- (g) A pattern of conduct derogatory to the standards of nursing as defined by the rules of the Board or a single serious occurrence;
- (k) Any other cause for discipline as defined in ORS 678.111.

Licensee 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 Licensee:

That the Registered Nurse license of Edward Yoder be SUSPENDED for a 90 day period of time, commencing five business days from the date this Order is signed by the Oregon State Board of Nursing. Licensee must adhere to the following conditions during the period of suspension:

Licensee shall complete the following continuing education courses:

- 1. Disciplinary Actions: What Every Nurse Should Know (4.80 contact hours NCSBN.com)**
- 2. Developing Your Leadership Potential (6.80 contact hours Nure.com).**
- 3. Professional Accountability and Legal Liability for Nurses (5.40 contact hours, NCSBN.com)**
- 4. Every Nurse is a Risk Manager (1.0 contact hours, Nurse.com)**
- 5. Sexual Assault and Rape- The Nursing Role (1.0 contact hours- Nurse.com)**
- 6. Evidence-Based Effective Nursing Leadership Check Your Practice- (1.0 contact hour, Nurse.com)**
- 7. Learning to Lead: From Staff Nurse to Charge Nurse (5.0 contact hours, Nurse.com)**

Licensee shall provide proof of successful completion of these courses by providing the Board a copy of a certificate of completion within 30 days of the date the Stipulated Order is signed by Licensee.

Following the successful completion of the suspension period, the Licensee, in his practice as a Registered Nurse, will be placed on probation.

Licensee's compliance with this Order will be monitored by the Oregon State Board of Nursing. Licensee must complete a twelve (12) month period of probation to begin upon Licensee's return to practice, monitored as outlined below. Licensee must practice a minimum of sixteen (16) hours per week, and no more than a maximum of one (1.0) FTE. Licensee must practice in a setting where Licensee can exercise the full extent of Licensee's scope of practice, in order to demonstrate Licensee's competence. Limited overtime may be approved on occasion, at the discretion of Board staff. Any period in which Licensee does not practice in the state of Oregon will not count toward the probationary period.

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

1. Licensee shall maintain an active license.
2. Licensee shall not violate the Nurse Practice Act (ORS 678) or the rules adopted thereunder.
3. Licensee shall not work in a nurse manager position for the first six months of the probation period. Licensee may continue to work in a non- nurse management role or as a nurse manager for the remaining 6 months of the probation period.
4. During the second 6 months of the probation period Licensee will notify Board staff in writing if he returns to practice as a nurse manager.

If Licensee does not return to practice as a nurse manager Licensee must complete and provide documentation of completion of the following education prior to the end of the probation period:

Courses offered by Northwest Organization of Nurse Executives (NWOne) as part of their Emerging Clinical Leader Series:

1. Effective Communication, Program Resolution, and Conflict Management
2. Regulatory and Legislative Compliance
3. Clinical Ethics and the Creation of Just Culture
4. Creating a Professional Practice Environment

5. Licensee shall have twenty-four (24) months from Board's acceptance of this Order to complete twelve (12) months of monitored practice.
6. Licensee 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. Licensee shall notify Board staff when there is a change in his employment status or setting, including resignations and terminations.
8. Licensee will not accept, or begin a new nursing position without prior approval of the Board. This includes changes of the employer itself or changes within the facility or institution.
9. Licensee shall inform Board staff in advance of any absences from Oregon or Washington, with the exception of his daily travel, and/or any move from Oregon or Washington to another licensing jurisdiction. If Licensee leaves the state and is unable to practice in the state of Oregon, Licensee's probationary status will be re-evaluated.
10. Licensee 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.
11. Licensee 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 Licensee's practice and provide assistance. Licensee shall be employed in a setting where Licensee's nursing 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, Licensee may be restricted from practicing as a nurse.
12. Licensee shall not work in any practice 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.
13. Licensee shall inform current and prospective employers, including any Nurse Executive, of the probationary status of Licensee's license, the reasons for probation, and terms and conditions of probation. If Licensee's employer has a Nurse Executive, Licensee shall inform Board staff of the name of the Nurse Executive and Board staff will provide the Nurse Executive with a copy this Order.
14. Between quarterly reporting periods, the Nurse Executive or a person designated by Licensee's employer shall inform Board staff of any instance of Licensee's non-compliance with the terms and conditions of this Order or of any other concern regarding Licensee's work-related conduct or personal behavior that may affect Licensee's ability to perform the duties of a nurse.

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

Licensee 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.

Licensee 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 Licensee's license, up to and including revocation of Licensee's license to practice as a Registered Nurse.

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

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

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

Licensee has read this Stipulated Order, understands this Order completely, and freely signs this Stipulated Order for Suspension followed by Probation.

IT IS SO AGREED:

Edward Yoder, RN

Date

ORDER

IT IS SO ORDERED:

BOARD OF NURSING FOR THE STATE OF OREGON

Kay Carnegie, RN, MS
Board President

Date