

# CNA IGNORES BOARD OF NURSING NOTICES WITH SERIOUS RESULT

written by Nancy Brent | April 1, 2025

## **Avoiding Liability Bulletin - April 2025**

[Certification and licensure](#) as a CNA in the state in which you practice may be governed by a separate law/statute or may be governed by a state board of nursing whose powers and duties also regulate CNAs.

In the following case (In the Matter of Nancy Parrott, CNA, Reference No. 2022100186), the Oregon State Board of Nursing, the state agency responsible for regulating CNA practice (in addition to other health care providers), ruled that the CNA's conduct required discipline.

### Happenings

The CNA was licensed in the State of Oregon since 2006.

On or about October, 2022, the CNA was reported to the Board for allegedly posting a video on a social media website that showed her "mocking" a patient where she worked.

As required by the Board's statute, it opened an investigation into the allegation.

The Board sent a letter to the CNA's address she listed with the Board requesting her to schedule an interview with the Board to discuss the allegations. She was also asked to send a written statement concerning the allegations and a work history.

The CNA did not contact the Board to schedule a meeting nor did she submit the requested documents.

In December, 2022, a second letter was sent to the CNA's address listed with the Board. The Board asked that she contact the Board within five (5) business days to schedule the interview, and again asked for the submission of a written statement concerning the allegations and a work history.

The Board received no response from the CNA.

In December of 2022, the Board mailed a *Notice of Proposed Suspension* to the CNA by both regular first-class mail and by certified mail, again to her address listed with the Board. The CNA was allowed twenty (20) days from the date of the mailing to contact the Board. The notice also indicated that the Board file would be a record that would support her not contacting the board as requested.

The CNA did not respond to this letter either. Her ability to request a hearing expired and a failure to respond (a default) was entered in her record.

### Board Hearing and Order

The Board clearly spelled out its authority to proceed with the hearing based on the state's statute governing this authority.

Initially, it stated that when there is a failure of a CNA to cooperate with the Board during an investigation, the failure is a basis for disciplinary action.

The Board cited that the statute allowed a revocation or a suspension of a certificate to practice as a CNA, or a reprimand of the CNA can occur when there is "conduct unbecoming a nursing assistant in the performance of duties."

Conduct unbecoming a nursing assistant, the Board continued, was clearly presented in the statute. Such conduct, regardless of responsibilities, and use of the title "CNA" requires a CNA to behave consistent with legal standards and accepted standards of a nursing assistant profession.

In addition, if a CNA adversely affects the health, safety, and welfare of the public, the CNA can be found to commit conduct unbecoming a nursing assistant. Such behavior includes not cooperating with the Board during the course of an investigation and failing to provide the Board with any documents it requests.

Because this CNA defaulted on the *Notice of Proposed Suspension* and a default was entered as required by statute, the Board suspended the CNA's certificate to practice for a minimum of two weeks. The suspension would be continued until the CNA fully cooperated with the Board's investigation.

If the certificate were reinstated, the CNA would be subject to whatever terms and conditions the Board may impose.

### Instructions to the CNA

The Board's Order, along with a letter, was sent to the CNA. She was informed she could file a petition for reconsideration or a hearing with the Board within 60 (sixty) days from the service of the letter.

Further instructions were that if she did not want to file a petition for reconsideration of the decision or request a hearing, the CNA could file a [judicial review](#) of the order of suspension, but the request for a judicial review must be filed within 60 (sixty) days from the date of service of the letter.

### Talking Points of this Case

It is not known what the outcome of this case is. Nor is it known why the CNA did not respond to the

Board's many requests for her to do so.

Whatever her reasons, the case emphasizes the point that as a CNA, you must always respond to any communication from the state organization that certifies and/or licenses you.

If you receive such communication, you need to contact your professional liability insurance company as soon as possible and before responding so you can obtain specific legal advice as to how to respond.

If you do not have professional liability insurance that covers licensure issues, you need to retain a nurse attorney or attorney to provide you with guidance.

An included responsibility is the importance of keeping your contact information current that you submitted to a board or state organization that regulates your practice. As in this case, the Board was able to discipline the CNA consistent with required due process mandates despite her absence.

A second issue this case highlights is the protection of the CNA's [due process rights](#) the Board maintained, such as notifying the CNA of the investigation, her rights to a hearing, and her right to file for a judicial review of the Board's Order.

Your CNA's certificate/license is considered a property interest under the 5<sup>th</sup> and 14<sup>th</sup> Amendment to the United States Constitution ( and in state constitutions as well). This means that you have a "legitimate claim of entitlement" to that certificate/license. As a result, due process protections attach to any attempt to discipline or remove the certification.

Another especially critical issue underscored in this case is the CNA's "mocking" the patient and posting that conduct on social media. First, such conduct is unprofessional and unethical, whether or not it was posted on social media.

This conduct alone, if reported to her employer or to the Board, could result in a termination of her employment and/or a report to the Board.

However, the posting on social media was clearly a misstep on the CNA's part. Not only was her conduct unethical and unprofessional, it could result in criminal charges against her and create licensing problems for her employer.

You can read about other CNAs who posted patient care situations on social media and the criminal charges that followed [here](#).

As a CNA, follow your employer policies concerning the use of any cell phones at work. Never post patients or patient care situations on a social media platform nor take pictures of patients or patient care for your own use.

One positive way to avoid the situation this CNA found herself in is to join a professional association for

CNAs. One to consider is the National Association of Health Care Assistants (NAHCA) that provides resources for CNAs. Their website can be accessed [here](#).

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