

# **Board of Nursing Determines Licensed Nurse Aide's (LNA) Professional Misconduct Requires Discipline**

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## **Avoiding Liability Bulletin - April 2024**

Licensed (or certified) nurse's aides are legally required to conduct themselves professionally. This includes adhering to the Certified Nurse Aide [Code of Ethics](#). When a nurse's aide does not do so, he or she can be disciplined by the agency that licenses them.

The agency regulating licensed nurse aides varies from state to state. It may be a state department of health or a board of nursing. However regulated, when unprofessional conduct or professional misconduct is alleged against a nurse's aide, his or her ability to continue to practice is jeopardized. A professional disciplinary action by the state entity can occur.

In the following case, a licensed nurse's aide's conduct was carefully evaluated by a state board of nursing.

### **Essentials of the Investigation of the Case**

A complaint was received by the state board of nursing that a licensed nurse's aide at a nursing home had "forcibly cut the nails of a resident against the resident's will."

An investigation was commenced by an investigator for the board, who was a licensed nurse and nurse practitioner in the state.

The investigator reviewed the complaint which stated the nurse's aide:

- Forced the cutting of the resident's nails against her wishes
- Firmly held the resident's hand to cut the nails
- Led the resident to believe she was just going to clean the nails
- Did not let go of the resident's hand when the resident requested she do so
- Used "unprofessional" comments and tone to the resident during the cutting of the nails
- Threatened to hold the resident down later to cut the nails if the resident did not cooperate

The complaint was supported by witness statements from four employees of the nursing home.

One of the witnesses observed the episode. She stated she heard the resident yell for help, went to assist the resident, and found her “extremely distraught”, telling the witness she did not want her nails cut.

She also included in her statement she saw the nurse’s aide firmly holding the resident’s left hand while trying to clip the nails.

The witness also stated that the resident apologized for scratching the nurse’s aide earlier in the day.

During her observation of the incident, the witness statement revealed that the nurse’s aide said the resident “has to have her nails clipped”, that multiple people had been scratched, and that she would “cut them later even if I have to hold her down, I’m going to cut them.”

Other witnesses’ statements supported this witness’s statement.

### **Board of Nursing Initiates Hearing**

At the hearing, the above information was introduced into evidence.

The licensed nurse’s aide did not have an attorney. She testified on her own behalf and also provided a written statement to the board. She:

- Apologized for causing distress in the resident
- Knew she was being “deceitful” to the resident by leading the resident to believe she would only clean her nails
- Acknowledged that she acted unprofessionally

The aide also stated she had learned from the experience by reading online materials about how to cope with stress and also provided an explanation as to how she “would better handle a similar situation in the future”.

### **Board of Nursing Decision**

Based on its findings of fact and the evidence presented, the board held that the licensed nurse’s aide violated the practice act for licensed nurses’ aides. Specifically, the board held that the aide committed professional misconduct and that her behavior demonstrated a deficiency in the area of resident rights, dealing with difficult residents, and ethics.

The nurse’s aide was reprimanded. In addition, she was ordered to take five (5) hours of continuing nursing education in the area of resident rights, dealing with difficult residents within ninety (90) days of the board’s order.

Further, the licensed nurse's aide was required to submit to the board the successful completion of the required courses.

The five hours of continuing education ordered was in addition to what is required for licensure under the board statute and rules.

### **Tips to Remember from This Case**

The nurse's aide was fortunate that she was not more severely [disciplined](#). The reprimand allowed her to continue to practice as long as she met the board's requirements.

Even so, the discipline is public. Not only does the discipline affect her professional and personal reputation, but it may also affect her job chances in the future.

Several guidelines from this case exist for you as a licensed nurse's aide and your practice in any healthcare setting, but certainly in long-term care.

They include:

- Know how your licensing state statute requires you to conduct yourself
- Know, and avoid, any unprofessional conduct or professional misconduct
- Know, and follow, your Code of Ethics
- Know that a board of nursing or other agency regulating your practice is required to investigate any complaint against you that is verified
- Never force a resident or a patient to accept care when providing care in whatever form
- If the resident resists or refuses care, contact the RN or RNs you are working with
- Never threaten a resident or patient if he or she refuses care in whatever form
- Pursuant to your facility policy, document the refusal and who you contacted about the refusal
- *Always* have a nurse attorney or attorney represent you in any licensing proceedings
- If you have professional liability insurance, contact your insurance company ASAP when you are notified of a complaint against you so an attorney can be assigned to represent you
- If you do not have professional liability insurance, contact a nurse attorney or attorney to represent you in any board of nursing or other agency proceedings
- Be truthful with your attorney and with the board of nursing or agency conducting the hearing on the complaint
- Have your attorney contact any witnesses who will testify on your behalf in the hearing
- Comply with any order required by the board of nursing or agency
- If possible in your state, seek an expungement (removal) of a disciplinary order when you have completed the order's requirements

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