

**EMPLOYMENT APPEALS BOARD DECISION**  
**2025-EAB-0193**

*Affirmed*  
*No Disqualification*

**PROCEDURAL HISTORY:** On December 5, 2024, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that the employer discharged claimant for misconduct, disqualifying claimant from receiving benefits beginning November 3, 2024 (decision # L0007497897).<sup>1</sup> Claimant filed a timely request for hearing. On March 19, 2025, ALJ Honea conducted a hearing, and on March 24, 2025, issued Order No. 25-UI-287022, reversing decision # L0007497897 by concluding that claimant's discharge was not for misconduct and did not disqualify claimant from receiving benefits. On March 26, 2025, the employer filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Praxis Medical Group, Inc. employed claimant as a medical assistant from August 5, 2024, until November 1, 2024.

(2) The employer expected their medical assistants to document test results in patient charts accurately, to not falsely state or omit the types of tests administered to a patient, and to charge patients for the tests administered to them. Claimant understood these expectations.

(3) The tests that the employer administered to patients at their clinic included a "rapid strep A test," a "COVID-19 molecular test," and a COVID-19 "card antigen test." Transcript at 6, 7. The COVID-19 molecular test is administered by operating a machine.

(4) On the morning of November 1, 2024, a patient presented at the employer's clinic, and claimant was assigned to administer a rapid strep A test and a COVID-19 molecular test to the patient. Claimant administered the strep test, and documented a positive test result in the patient's chart.

<sup>1</sup> Decision # L0007497897 stated that claimant was denied benefits from November 3, 2024 to November 1, 2025. However, because decision # L0007497897 found that claimant was discharged on November 1, 2024, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, October 27, 2024, and until she earned four times her weekly benefit amount. See ORS 657.176.

(5) Claimant used the molecular machine to administer the COVID-19 molecular test and, because claimant could not get the machine to work properly, received “positive results, negative results, as well as invalid results.” Transcript at 8. The varying readings made the ultimate result of the molecular test one that the employer regarded as invalid. Because the machine was not working properly, claimant administered the COVID-19 antigen test to the patient, and the results were positive.

(6) Claimant then documented both the molecular test and the antigen test in the patient’s chart, and listed the results as positive. The employer believed that claimant documented only the COVID-19 molecular test result in the patient’s chart, listing the result as positive, and did not indicate that the antigen test had been administered. Transcript at 8.

(7) Claimant charged the patient for the COVID-19 molecular test. Claimant did not charge the patient for the COVID-19 antigen test. Claimant’s failure to charge for the antigen test was an oversight, and not intentional.

(8) Later on November 1, 2024, the patient returned to the clinic and was tested for strep and COVID-19 again. The results were negative for both strep and COVID-19. The attending provider believed claimant had received an invalid reading on the molecular machine, used the COVID-19 antigen test to establish a positive reading, did not charge the patient for the antigen test, and then falsely listed the results of the COVID-19 molecular test as positive. The provider referred the matter to claimant’s supervisor.

(9) On November 1, 2024, the employer discharged claimant. Prior to being discharged, claimant’s supervisor met with claimant. During the meeting, the supervisor told claimant they were discharging her for “falsifying records.” Transcript at 16. The employer believed claimant had falsely listed in the chart the results of the COVID-19 molecular test as positive based on the positive reading from the antigen test, and would not have discharged claimant when they did if she had not allegedly done so.

**CONCLUSIONS AND REASONS:** The employer discharged claimant, but not for misconduct.

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. “As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest is misconduct.” OAR 471-030-0038(3)(a) (September 22, 2020). “[W]antonly negligent” means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee.” OAR 471-030-0038(1)(c). In a discharge case, the employer has the burden to establish misconduct by a preponderance of evidence. *Babcock v. Employment Division*, 25 Or App 661, 550 P2d 1233 (1976).

At hearing, the employer’s witness testified that the employer’s reasons for discharging claimant were “false documentation of test results as well as charges to a patient’s chart.” Transcript at 5. However, the employer also testified that “if [claimant] had not, uh, falsely documented on November 1<sup>st</sup>. Then, no, I don’t think she would have been terminated.” Transcript at 10. Thus, the record shows that if claimant had not allegedly falsely listed in the patient’s chart the results of the COVID-19 molecular test as

positive based on the positive reading from the antigen test, as the employer believed had occurred, the employer would not have discharged claimant. That issue is therefore the proximate cause of the discharge and therefore the focus of the analysis. *See e.g. Appeals Board Decision 12-AB-0434*, March 16, 2012 (discharge analysis focuses on proximate cause of the discharge, which is generally the last incident of misconduct before the discharge); *Appeals Board Decision 09-AB-1767*, June 29, 2009 (discharge analysis focuses on proximate cause of discharge, which is the incident without which the discharge would not have occurred when it did).

The employer did not meet their burden to prove that claimant documented false information in the patient's chart. The employer's allegation that she had is based on their belief that claimant had received an invalid reading on the molecular machine, used the COVID-19 antigen test to establish a positive reading, falsely listed the results of the COVID-19 molecular test as positive without mentioning that the antigen test had been done, and charged the patient for the molecular test but not the antigen test. Transcript at 7-8. This is based on the employer's witness' testimony that claimant documented only the COVID-19 molecular test result in the patient's chart, listing the result as positive, and did not indicate that the antigen test had been administered. Transcript at 8. The witness also testified that claimant did not charge the patient for the antigen test. Transcript at 7.

However, claimant disputed the testimony of the employer's witness. Claimant testified that when she used the molecular machine to administer the COVID-19 molecular test, she could not get the machine to work properly. Transcript at 15. That caused her to also administer the antigen test. Transcript at 17. Claimant testified that she documented the results of both the molecular test and the antigen test in the patient's chart. Transcript at 15, 17. Claimant testified that she charged for the molecular test because she performed that test, and acknowledged that she did not charge the patient for the antigen test but explained that her failure to do that was an oversight and not intentional. Transcript at 17-18.

Based on the foregoing, the evidence is no more than equally balanced as to whether claimant had falsely listed in the patient's chart the results of the COVID-19 molecular test as positive based on the positive reading from the antigen test, without acknowledging that she had performed the antigen test. As the employer is the party with the burden of proof to establish misconduct, the equal balance of the evidence results in the employer not proving that claimant documented false information in the patient's chart.

The employer also expected claimant to document test results in patient charts accurately, an expectation claimant understood. To the extent the employer regarded claimant as having engaged in falsely documenting test results because she listed the results of the molecular and antigen COVID-19 tests as positive, and the result of the rapid strep A test as positive, only for tests conducted later in the day to show that the patient was negative for COVID-19 and strep, the employer did not prove a willful or wantonly negligent violation.

At hearing, the employer's witness conceded that claimant had administered the tests correctly, and the tests had yielded accurate results, with the exception that the varying readings of the molecular test made the ultimate result of the molecular test one the employer considered to be invalid. Transcript at 6, 8. As to the latter test, the employer's witness testified that claimant had "positive results, negative results, as well as invalid results." Transcript at 8.

In light of this evidence, the record shows that the rapid strep A test claimant administered was correctly performed and yielded a positive result that was accurate. Although that result was contradicted by the negative test result for strep that occurred later in the day, claimant documented the result of the strep test accurately in the patient's chart. Listing the results of the molecular and antigen tests in the patient's chart as positive was likewise not inaccurate. The result of the antigen test was positive and claimant documented it accordingly. Although the molecular machine produced varying results, the employer conceded that some of the results produced were positive. Since some of the results were positive, the employer did not prove by a preponderance of the evidence that listing the result of the molecular test as positive amounted to falsely documenting test results.

Finally, the employer expected claimant to charge patients for the tests administered to patients. Claimant understood this expectation. Claimant charged the patient for the molecular test but did not charge the patient for the antigen test. Claimant's failure to charge for the antigen test was an oversight, and not intentional. Because the failure to charge for the antigen test was not intentional, the employer failed to show a willful violation of their expectation. Because the failure to charge for the antigen test was an oversight, the record shows it was the result of ordinary negligence, rather than wanton negligence, and thus not sufficient to establish misconduct. In any event, because the employer's witness testified at hearing that the reason the employer discharged claimant was for allegedly falsely documenting test results in the patient's chart, the record shows that the failure to charge for the antigen test was not a proximate cause of the discharge and thus need not be assessed in determining whether the employer discharged claimant for misconduct. Transcript at 10.

For the reasons outlined above, the employer discharged claimant, but not for misconduct. Claimant is not disqualified from receiving unemployment insurance benefits based on the work separation.

**DECISION:** Order No. 25-UI-287022 is affirmed.

D. Hettle and A. Steger-Bentz;  
S. Serres, not participating.

**DATE of Service:** April 30, 2025

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above**. See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

**Please help us improve our service by completing an online customer service survey.** To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



# Understanding Your Employment Appeals Board Decision

## English

**Attention** – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

## Simplified Chinese

**注意** – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Traditional Chinese

**注意** – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

## Tagalog

**Paalala** – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyon.

## Vietnamese

**Chú ý** - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

## Spanish

**Atención** – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

## Russian

**Внимание** – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

## Khmer

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

## Laotian

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

## Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

## Farsi

توجه - این حکم بر مزایای بیکاری شما تأثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

**Employment Appeals Board - 875 Union Street NE | Salem, OR 97311**

Phone: (503) 378-2077 | 1-800-734-6949 | Fax: (503) 378-2129 | TDD: 711

Email: [appealsboard@employ.oregon.gov](mailto:appealsboard@employ.oregon.gov)

Website: [www.Oregon.gov/employ/pages/employment-appeals-board.aspx](http://www.Oregon.gov/employ/pages/employment-appeals-board.aspx)

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.