

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0296

Reversed
Disqualification

PROCEDURAL HISTORY: On December 24, 2025, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant was discharged for misconduct, and therefore was disqualified from receiving unemployment insurance benefits effective November 9, 2025 (decision # L0014907715).¹ The employer filed a timely request for hearing. On March 5, 2026, ALJ Laurie-Gardiner conducted a hearing and issued Order No. 26-UI-322585, reversing decision # L0014907715 by concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving benefits based on the work separation. On March 25, 2026, the employer filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered claimant's and the employer's written arguments when reaching this decision.

FINDINGS OF FACT: (1) Good Samaritan Hospital & Medical Center employed claimant as a "clinic medical office specialist lead" from June 27, 2023 through November 13, 2025. Transcript at 5. Claimant worked at the front desk of the employer's cardiology clinic, which was located on the same campus as the employer's hospital and other clinics.

(2) The employer maintained a written policy intended to ensure compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In relevant part, the policy stated, "In accordance with [HIPAA], we only use, disclose, or discuss protected health information (PHI) with others when it is necessary for treatment, payment, or health care operations purposes, authorized by the patient, or permitted or required by law." Exhibit 2 at 6. The policy also required, in relevant part, that employees

¹ Decision # L0014907715 stated that claimant was denied benefits from November 23, 2025 to November 21, 2026. However, as decision # L0014907715 found that claimant was discharged on November 13, 2025, it should have stated that claimant was disqualified from receiving benefits beginning Sunday, November 9, 2025 and until she earned four times her weekly benefit amount. See ORS 657.176.

“only [access] information needed to do [their] job (minimum necessary rule)[.]” Exhibit 2 at 7. Claimant was provided with a copy of this policy, and understood it.

(3) On October 9, 2025, claimant was working at the clinic’s front desk when an “overhead code was called”—i.e., a medical event relating to a patient was relayed over the employer’s audio system. Exhibit 2 at 20. The code included the medical record number (MRN) of the patient. The patient was being treated at the hospital, not the cardiology clinic, and was not a current patient of the clinic. Nevertheless, claimant entered the patient’s MRN into the employer’s electronic medical record (EMR) system and opened the patient’s chart.

(4) After opening the patient’s chart, claimant, over the course of approximately 30 minutes, viewed various areas of the chart, including orders, imaging results, encounter summaries, and medication lists. *See* Exhibit 2 at 27–33. While claimant did not actively view the chart for the entirety of the approximate 30 minute period of time, she spent varying amounts of time viewing the chart, for an aggregate total of approximately 13 minutes. Exhibit 2 at 27–33. Claimant could not recall having any specific direction to open the chart and could not recall being given any instructions related to her review of the chart. Claimant did not check to see if the patient in question was a patient of the cardiology clinic and did not have any plausible explanation for reviewing the chart.

(5) On October 30, 2025, the employer received an anonymous report that claimant had accessed the chart of the patient in question, without any business need to do so on October 9, 2025. The employer subsequently conducted an audit of access to that patient’s chart, and learned that claimant had spent approximately 30 minutes in the patient’s chart on October 9, 2025.

(6) After interviewing claimant and other witnesses to the incident, the employer determined that claimant had accessed the patient’s chart without a business need to do so in violation of HIPAA and the employer’s related policy; had disclosed the patient’s PHI to parties not entitled to that information, also in violation of HIPAA and employer’s related policy; and had been untruthful during the subsequent investigation into the incident. As such, on November 13, 2025, the employer discharged claimant.

CONCLUSIONS AND REASONS: Claimant was discharged 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).

Isolated instances of poor judgment are not misconduct. OAR 471-030-0038(3)(b). To be isolated, an instance of poor judgment must be a single or infrequent occurrence rather than a repeated act or pattern

of other willful or wantonly negligent behavior. OAR 471-030-0038(1)(d)(A). However, acts that violate the law, that are tantamount to unlawful conduct, or that create irreparable breaches of trust in the employment relationship or otherwise make a continued employment relationship impossible exceed mere poor judgment and do not fall within the exculpatory provisions of OAR 471-030-0038(3). OAR 471-030-0038(1)(d)(D).

The employer discharged claimant because they determined that on October 9, 2025, claimant had accessed a patient's chart without a business need to do so and had disclosed the patient's PHI to parties not entitled to that information, in violation of HIPAA and employer's related policy; and had also been untruthful during the subsequent investigation into the incident. As an initial matter, the record contains conflicting or incomplete evidence regarding the employer's second and third reasons for discharging claimant. The order under review correctly concluded that the employer failed to meet their burden to show that claimant actually disclosed the patient's PHI to anyone not entitled to that information. Order No. 26-UI-322585 at 4. Likewise, while claimant did not directly rebut the employer's assertion that she was untruthful in the investigation, claimant was not offered the chance to rebut that assertion, and some evidence in the record suggests that claimant's statements during the investigation may have simply been misconstrued. However, it is unnecessary to determine whether claimant was untruthful during the employer's investigation because, as explained below, the record shows that claimant's accessing of the patient's chart was a violation of the employer's HIPAA-compliance policy and HIPAA laws.

The employer's HIPAA-compliance policy, in relevant part, prohibited the use of PHI except when "necessary for treatment, payment, or health care operations purposes, authorized by the patient, or permitted or required by law," and required that employees only access PHI when "needed to do [their] job." Claimant was aware of and understood this policy. Despite this, on October 9, 2025, claimant accessed the chart of a patient who was not receiving care at the clinic where claimant worked, after having heard a code announced regarding the patient. At hearing, claimant explained that after the code was called, another front desk employee, "K," called the the patient's MRN out; and that claimant believed that K was requesting claimant's help with the patient's chart. Transcript at 31. Claimant also testified, however, that she began reviewing the chart without K actually asking claimant for help with the matter. Transcript at 32. Claimant testified she did not look in the chart to determine whether the patient was a patient at the clinic where claimant worked. Transcript at 38.

Even assuming that claimant's above explanation is accurate, that it was common practice for her to help with chart review in response to a coworker merely calling out an MRN, this explanation is not sufficient to explain why claimant spent so much time in the chart. The record shows that claimant spent approximately 30 minutes in the patient's chart, reviewing various items such as orders, imaging results, encounter summaries, and medication lists. Yet, claimant testified she could not recall being asked to review any specific information and did not check to see if the patient was a patient at the clinic she worked. Transcript at 38-39. Claimant offered no plausible explanation for why she spent so much time, and looked at so many items, in the chart. However, claimant's supervisor suggested at hearing that she believed claimant did so merely out of curiosity. Transcript at 16. In the absence of any other plausible explanation for claimant's conduct, this explanation is, more likely than not, correct. Thus, the record shows by a preponderance of the evidence that claimant had no legitimate business need to review the patient's chart.

In continuing to review the patient’s chart without a legitimate business need over the course of nearly half an hour, claimant violated the employer’s policy that prohibited her from accessing PHI that was not necessary to perform her job. Because claimant was aware of that policy, and offered no explanation for why she spent so long reviewing the chart, it can be inferred from the record that she did so without regard for the consequences of her actions, and therefore violated the employer’s policy with at least wanton negligence. The order under review concluded the same. Order No. 26-UI-322585 at 4. However, the order under review also concluded that claimant’s conduct was an isolated instance of poor judgment. Order No. 26-UI-322585. The record does not support this conclusion.

For conduct to be considered an isolated instance of poor judgment, it must not, in relevant part, exceed mere poor judgment. Under OAR 471-030-0038(1)(d)(D), acts that violate the law, that are tantamount to unlawful conduct, or that create irreparable breaches of trust in the employment relationship or otherwise make a continued employment relationship impossible are considered to exceed mere poor judgment. Here, claimant’s conduct violated not only the employer’s HIPAA-compliance policy, but violated, or was tantamount to violating, HIPAA itself, by way of regulations promulgated under that statutory regime.

45 C.F.R. § 164.502 states, in relevant part:

(a) Standard. A covered entity or business associate may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.

(1) Covered entities: Permitted uses and disclosures. A covered entity is permitted to use or disclose protected health information as follows:

* * *

(ii) For treatment, payment, or health care operations, as permitted by and in compliance with § 164.506;

* * *

(b) Standard: Minimum necessary — When using or disclosing protected health information or when requesting protected health information from another covered entity or business associate, a covered entity or business associate must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

* * *

As explained above, there was no identified purpose for the use of the PHI at issue in the patient’s chart that claimant accessed, at least not for the length of time and breadth of scope that claimant reviewed it. As such, it cannot be said that claimant’s review of the chart was performed in furtherance of the uses contemplated under 45 C.F.R. § 164.502(a), including “health care operations.” Likewise, without a legitimate purpose (such as for “health care operations”), claimant failed to make reasonable efforts to

limit her use of the patient's PHI to the minimum necessary to accomplish such a purpose. Therefore, claimant's conduct violated these regulations under HIPAA, and was at least tantamount to unlawful conduct.

Because claimant's conduct was at least tantamount to unlawful conduct, claimant's conduct cannot be excused as an isolated instance of poor judgment. Claimant's willful or wantonly negligent violation of the employer's standards of behavior was therefore misconduct.

For the above reasons, claimant was discharged for misconduct, and is therefore disqualified from receiving unemployment insurance benefits effective November 9, 2025.

DECISION: Order No. 26-UI-322585 is set aside, as outlined above..

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

DATE of Service: May 11, 2026

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.

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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

ទោរទៅ – តម្រូវការនេះមិនមែនជាភារកិច្ចរបស់រដ្ឋនោះទេ បើសិនជាលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

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 الإستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر 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 دستور العمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

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