

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0425

Affirmed
No Disqualification

PROCEDURAL HISTORY: On October 3, 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 August 24, 2025 through August 29, 2026 (decision # L0013245710). Claimant filed a timely request for hearing. On January 5, 2026, ALJ Andersen conducted a hearing, and on January 12, 2026 issued Order No. 26-UI-316676, modifying decision # L0013245710 by concluding that claimant was discharged for misconduct, and therefore disqualified from receiving benefits effective August 24, 2025 and until requalified under Department law. On January 27, 2026, claimant filed an application for review of Order No. 26-UI-316676 with the Employment Appeals Board (EAB). On March 11, 2026, EAB issued EAB Decision 2026-EAB-0090, reversing Order No. 26-UI-316676 and remanding the matter for further development of the record.

On April 13, 2026, ALJ Andersen conducted a hearing, and on April 21, 2026 issued Order No. 26-UI-327711, reversing decision # L0013245710 by concluding that claimant was discharged, but not for misconduct, and therefore was not disqualified from receiving unemployment insurance benefits based on the work separation. On May 1, 2026, the employer filed an application for review of Order No. 26-UI-327711 with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: EAB considered the employer's written argument when reaching this decision.

FINDINGS OF FACT: (1) Klamath Health Partnership, Inc. employed claimant as a medical assistant (MA) at their clinic from March 17, 2025 through August 25, 2025. As an MA, claimant's duties included rooming patients for their appointments and taking patients' vital signs ("vitals"), among other duties.

(2) By policy, the employer required MAs to always take all of a patient's vitals at every visit. These consisted of seven different readings: height, weight, blood pressure, respiratory rate, heart rate,

temperature, and blood oxygen saturation. Additionally, the employer maintained a code of ethics which stated, in relevant part, “Accurate vital signs are a critical component of patient assessment. Entering fabricated values create[s] a . . . risk for loose diagnosis, delayed treatment, or inappropriate critical decisions. Healthcare organizations are legally and ethically required to maintain accurate medical records. Falsification of clinical documentation is considered a serious breach of that obligation.” January 5, 2026 Transcript at 39–40. Claimant was provided with copies of these policies, and understood them.

(3) On August 20, 2025, claimant was tasked with rooming a patient and taking her vitals. Typically, claimant would take the patient’s weight on a scale outside the treatment rooms before entering the room with the patient and taking the other six vitals. On this occasion, however, a small crowd was standing around the scale, so claimant roomed the patient, took her other six vitals, and then, at the end of the visit, took the patient’s weight. Claimant entered all seven of the patient’s vitals into the patient’s chart.

(4) Later on August 20, 2025, another MA reported to a supervisor, “K,” that they had witnessed claimant failing to take the vitals of the patient in question, and that claimant had stated to the patient that it was not necessary to take her vitals that day. On August 22, 2025, K, who did not witness the interaction directly, called the patient to discuss the matter. The patient told K that claimant had not taken her vitals during her visit, and that when the patient had asked claimant if she was going to take her vitals, claimant said it was not necessary. K’s office was near the scale, and K did not see claimant take the patient’s weight at the time of the visit.

(5) On August 25, 2025, the employer discharged claimant because they believed she had failed to take the patient’s vitals during the August 20, 2025 visit, and that she had falsely entered the patient’s vitals into her chart.

CONCLUSIONS AND REASONS: Claimant was discharged, 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).

The employer discharged claimant because they believed she had failed to take the patient’s vitals during the August 20, 2025 visit, and that she had falsely entered the patient’s vitals into her chart. At hearing, the parties presented conflicting accounts of this visit. Between the two hearings, the employer presented three witnesses: K, another supervisor, and a human resources (HR) representative. While all three witnesses testified regarding this incident, only K directly witnessed any of the events relating to the August 20, 2025 patient visit. K did not, herself, actually witness the interactions between claimant

and the patient that day; her understanding of what took place came from the other MA who reported the issue, and her conversation with the patient herself. Thus, K's first-hand account of the incident is limited to her testimony that she "personally witnessed [claimant] not taking the [patient's] weight because" the scale was directly outside of K's office. April 13, 2026 Transcript at 15. The employer did not produce either the MA who allegedly witnessed claimant speaking with the patient, or the patient herself. Thus, the remainder of the employer's evidence regarding whether or not claimant actually took the patient's vitals that day is hearsay.

By contrast, claimant asserted at both hearings that she took all of the patient's vitals that day, and further testified that she never told the patient that it was not required to take the patient's vitals that day. January 5, 2026 Transcript at 23; April 13, 2026 Transcript at 17. Because claimant's testimony on these points is first-hand, it is afforded greater weight than the employer's hearsay testimony. Additionally, while K testified first-hand that she saw claimant not taking the patient's weight, claimant testified that she took the patient's weight at the end of the visit, rather than the beginning, as she would have typically done. April 13, 2026 Transcript at 17. The employer's witnesses did not rebut this assertion. Thus, while it is possible that K witnessed claimant not taking the patient's weight at the *beginning* of the visit, it nevertheless remains possible that K simply missed claimant's doing so at the end of the visit. Regardless, as the evidence on this point is no more than equally balanced, the employer has not met their burden of proof to show that claimant did not take the patient's weight.

In sum, the weight of the evidence, above, favors claimant's account of the August 20, 2025 visit, and the facts have been found accordingly. As such, the record shows that claimant actually did take all of the patient's vitals on August 20, 2025, and entered the vitals correctly, rather than falsely, into the patient's chart. Because claimant did not engage in the alleged conduct that the employer discharged her for, claimant was not discharged for a willful or wantonly negligent violation of the employer's standards of behavior. It should be noted that while the record contains evidence relating to other, earlier alleged violations of the employer's standards of behavior, it is not necessary to examine those allegations here. As the proximate cause of claimant's discharge was not a willful or wantonly negligent violation of the employer's standards of behavior, it is not necessary to determine whether the isolated instance of poor judgment exception applies.¹

For the above reasons, claimant was discharged, but not for misconduct, and therefore is not disqualified from receiving unemployment insurance benefits based on the work separation.

DECISION: Order No. 26-UI-327711 is affirmed.

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

DATE of Service: June 12, 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

¹ Isolated instances of poor judgment, good faith errors, unavoidable accidents, absences due to illness or other physical or mental disabilities, or mere inefficiency resulting from lack of job skills or experience are not misconduct. OAR 471-030-0038(3)(b).

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

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 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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