

## **Division 62**

# **Standards for Certification of Nursing Assistants and Medication Aides**

### **Effective Dates for References to CNA 1 and CNA 2 in these Rules 851-062-0005**

References to CNA 1 and CNA 2 in Division 62, including but not limited to OAR 851-062-0015 and 851-062-0016, are not effective until the Board adopts the curriculum and competency evaluation for the first level 2 category. Until the Board adopts the curriculum and competency evaluation for the first level 2 category, references to CNA 1 in OAR 851-062-0010 through OAR 851-062-0130 mean current CNA certification.

### **Definitions**

#### **851-062-0010**

- (1) "Application" means a request for certification including all information identified on a form supplied by the Board and payment of required fee.
- (2) "Approved Nursing Program" means a pre-licensure educational program approved by the Board for registered or practical nurse scope of practice, or an educational program in another state or jurisdiction approved by the licensing board for nurses or other appropriate accrediting agency for that state.
- (3) "Certificate of Completion" means a document meeting the standards set in OAR 851-061-0100(3)(a-i) and awarded upon successfully meeting all requirements of a nursing assistant or medication aide training program.
- (4) "Certified Medication Aide (CMA)" means a Certified Nursing Assistant who has had additional training in administration of noninjectable medication and holds a current unencumbered Oregon CMA Certificate.
- (5) "Certified Nursing Assistant (CNA)" means a person who holds a current Oregon CNA certificate by meeting the requirements specified in these rules; whose name is listed on the CNA Registry; and who assists licensed nursing personnel in the provision of nursing care. The phrase Certified Nursing Assistant and the acronym CNA are generic and may refer to CNA 1, CNA 2 or all CNAs.
- (6) "Certified Nursing Assistant 1 (CNA1)" means a person who holds a current Oregon CNA 1 certificate and who assists licensed nursing personnel in the provision of nursing care.
- (7) "Certified Nursing Assistant 2 (CNA 2)" means a CNA 1 who has met requirements specified in these rules for one or more of the CNA 2 categories.
- (8) "Client" means the individual who is provided care by the CNA or CMA including a person who may be referred to as "patient" or "resident" in some settings.
- (9) "CNA Registry" means the listing of Oregon Certified Nursing Assistants maintained by the Board.
- (10) "Competency evaluation" means the Board-approved process for determining competency.
- (11) "Completed Application" means a signed application, paid application fee and submission of all supporting documents related to certification requirements.
- (12) "Completed Application Process" means a completed application, a Law Enforcement Data System (LEDS) check including any subsequent investigation; successful competency examination, if required; and final review for issue or denial.
- (13) "Endorsement" means the process of certification for an applicant who is trained and certified as a CNA in another state or jurisdiction.
- (14) "Enrolled" means making progress toward completion of a RN or LPN nursing program, whether or not registered in the current quarter or semester, as verified by the director or dean of the program.
- (15) Examinations:
  - (a) "Competency Examination" means the Board-approved examination administered to determine minimum competency for CNA 1 authorized duties. The competency

examination consists of a written examination and a manual skills examination. The examination is administered in English.

- (b) "Medication Aide Examination" means the Board-approved examination administered to determine minimum competency for CMA authorized duties. The examination is administered in English.
- (16) "Full-time" means at least 32 hours of regularly scheduled work each week.
- (17) "Licensed Nursing Facility" means a licensed nursing home or a Medicare or Medicaid certified long term care facility.
- (18) "Monitoring" means that a Registered Nurse assesses and plans for care of the client, assigns duties to the nursing assistant according to the nursing care plan, and evaluates client outcomes as an indicator of CNA/CMA competency.
- (19) "Nurse Aide Registry" means the listing of Certified Nursing Assistants maintained by the appropriate state agency in another state or jurisdiction of the United States.
- (20) "OBRA" means the Omnibus Budget Reconciliation Act of 1987, successor legislation and written directives from the Center for Medicare and Medicaid Services (CMS).
- (21) "Qualifying Disability" means a diagnosed physical or mental impairment which substantially limits one or more major life activities, and is subject to the protection of the Americans with Disabilities Act (ADA).
- (22) "Reactivation" is the process of renewing certification after the certificate is expired.
- (23) "Reinstatement" is the process of activating a certificate after it has been subject to disciplinary sanction by the Board.
- (24) "Supervision" means that the licensed nurse is physically present and accessible in the immediate client care area, is available to intervene if necessary, and periodically observes and evaluates the skills and abilities of the CNA/CMA to perform authorized duties.
- (25) "Unlicensed Persons" means individuals who are not necessarily licensed or certified by this Board or another Oregon health regulatory agency but who are engaged in the care of clients.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **Transition to CNA 1 and CNA 2**

#### **851-062-0015**

The Board hereby establishes two levels of CNA, each with its own distinct curriculum requirements, evaluation method and authorized duties, effective when the first level 2 category curriculum and competency evaluation are adopted.

- (1) Any person certified as a CNA on the effective date established by OAR 851-062-0005 shall become a CNA 1.
- (2) Requirements for recognition as a CNA 2:
  - (a) Hold a current, unencumbered CNA 1 certificate; and
  - (b) Complete the nursing assistant level 2 training program specified in Division 61 of these rules; and
  - (c) Pass the corresponding competency evaluation.

### **CNA 2 Categories**

#### **851-062-0016**

- (1) Acute Care Category. The acute care category becomes available after the Board adopts the curriculum and competency evaluation for this category.
- (2) Dementia Care Category. The dementia care category becomes available after the Board adopts the curriculum and competency evaluation for this category.
- (3) Restorative Care Category. The restorative care category becomes available after the Board adopts the curriculum and competency evaluation for this category.
- (4) Other categories as subsequently established by the Board.
- (5) For three years following the implementation date of each CNA 2 category, a person with a current unencumbered CNA 1 may become a CNA 2 in that category by successfully completing the competency evaluation and such additional training as may be deemed necessary by the nursing assistant level 2 training program director. After that date, a

CNA 1 may become a CNA 2 only by successfully completing the entire level 2 training program and competency evaluation.

### **Certification of Nursing Assistants Required**

#### **851-062-0020**

- (1) A CNA must have a current Oregon CNA 1 certificate and be listed on the Oregon CNA Registry prior to performing CNA 1 authorized duties.
- (2) A nursing assistant, never certified in any jurisdiction, who performs CNA 1 authorized duties as an employee of a licensed nursing facility in the State of Oregon must obtain initial Oregon CNA 1 certification according to these rules no later than four months after the date of hire.
- (3) A nursing assistant who is enrolled in an approved nursing assistant level 1 training program that meets the standards set forth in OAR 851-061-0010 through OAR 851-061-0130 may perform nursing assistant duties with appropriate supervision.
- (4) Unlicensed persons who are performing tasks that have been delegated to them by a Registered Nurse according to OAR 851-047-0000 through OAR 851-047-0040 may be certified or may be exempted from the requirement for certification.
- (5) Successful completion of a Board-approved training program, alone, does not result in the granting of a CNA certificate. The training program is one element of certification requirements. All requirements must be met before the Board grants certification.
- (6) A RN, LPN, student nurse or unlicensed graduate of a school of nursing is required to have current CNA 1 certification before assuming a CNA position and identifying himself or herself as a CNA.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.440, 678.442**

### **Limits on Eligibility for Certification**

#### **851-062-0030**

- (1) If an applicant has a major physical or mental condition that could affect his/her ability to safely perform the duties of a nursing assistant, a physical or psychological assessment may be required. If the Board determines that the applicant's physical or mental health could interfere with the safe performance of nursing assistant duties, certification may be denied.
- (2) If an applicant has been arrested, charged or convicted of any criminal offense, a determination shall then be made as to whether the arrest, charge or conviction bears a demonstrable relationship to the performance of nursing assistant duties, in which case certification may be denied.
- (3) If the applicant has past, current or pending disciplinary action in Oregon or in another jurisdiction, the Board shall investigate and may deny certification.
- (4) If the applicant falsifies an application, supplies misleading information or withholds information, such action may be grounds for denial or revocation.
- (5) The Board shall be the sole judge of eligibility for certification.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **CNA Certification**

#### **851-062-0050**

An applicant for certification must submit a completed application using forms and instructions provided by the Board and pay fees established by the Board. Certification may be obtained in one of the following ways:

- (1) Training and Competency Examination:
  - (a) Complete an approved nursing assistant level 1 training program.
  - (b) Pass the competency examination within two years of the date of completion of the training program and within three attempts.
- (2) Military corpsman or medic training and experience and competency examination:
  - (a) Complete a training course equal in content to OBRA curriculum for nursing

- assistants; and
  - (b) Document evidence of at least 400 hours of paid employment in a nursing related capacity within the last two years; and
  - (c) Pass the competency examination within two years of application and within three attempts.
- (3) RN or LPN licensure:
- (a) Hold a current unencumbered license in any U.S. state or jurisdiction.
  - (b) Provide verification of current unencumbered licensure.
  - (c) A nurse in any U.S. state or jurisdiction who has had disciplinary action taken against the license will be considered on an individual basis to determine whether the individual is able to safely perform CNA 1 authorized duties.
- (4) Enrollment in an approved nursing education program in the United States:
- (a) Provide verification of enrollment in an approved nursing program; and
  - (b) Complete required course work equivalent to a Board-approved nursing assistant level 1 training program documented by:
    - (A) An official transcript from the nursing program; or
    - (B) Written verification of completion of equivalent coursework from the nursing program director or dean.
- (5) Graduation from an approved nursing program in the United States:
- (a) Within one year after graduation, submit an official transcript documenting graduation from an approved nursing program.
  - (b) Between one and three years after graduation:
    - (A) Submit an official transcript documenting graduation from an approved nursing program; and
    - (B) Pass the competency examination within two years and three attempts.
  - (c) Three or more years after graduation. The individual shall meet requirements for initial CNA 1 certification by training and competency examination.
- (6) Graduation from a nursing program outside of the United States and competency examination:
- (a) Submit a transcript or other documentation, in English, of nursing education which includes nursing knowledge and skills necessary to perform the CNA 1 authorized duties; and
  - (b) Pass the competency examination; or
  - (c) Complete the training and competency examination as provided in OAR 851-062-0050(1).
- (7) Nursing assistant training outside of the United States. Complete training and competency examination as provided in OAR 851-062-0050(1).
- (8) Endorsement:
- (a) Provide the following:
    - (A) Documentation of successful completion of a nursing assistant training program that met OBRA standards.
      - (i) Certificate of completion meeting the standards set in OAR 851-061-0100(3)(a-i); or
      - (ii) Letter from facility where training was completed, on letterhead, indicating the date that program was completed and the number of classroom and clinical hours; or
      - (iii) Information from the appropriate state agency attesting to program completion.
    - (B) Evidence of at least 400 hours of paid employment within CNA 1 authorized duties under the supervision of a nurse in another state where the individual held current certification in the two years immediately preceding application for endorsement. A CNA who has graduated from a nursing assistant training program within the previous two years has satisfied this requirement.
    - (C) Verification of current certification by the state agency in which CNA certification is held.

- (b) An individual who cannot satisfy these requirements may be eligible for CNA 1 certification by training and competency examination as provided in OAR 851-062-0050(1).
- (9) CNA Testing Eligibility:
  - (a) An applicant who has completed a nursing assistant training program in Oregon or another of the United States, that met OBRA standards shall be eligible for examination for two years from the date of completion of the nursing assistant training program.
  - (b) An applicant who is eligible for the competency examination as provided in OAR 851-062-0050(2)(5)(6) shall be eligible for examination for two years from the date of application.
  - (c) A completed application shall be valid for the period of eligibility to test.
  - (d) An incomplete application becomes void in one year.
  - (e) An applicant who fails to pass the competency examination within two years of eligibility and within three attempts shall not be eligible to reapply for the examination except that the applicant may regain eligibility enrolling in and successfully completing a Board-approved nursing assistant program.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.442**

### **Competency Examination Accommodations, Controls, Results, Reexamination 851-062-0055**

- (1) An applicant for the competency examination must be able to perform nursing assistant duties safely, without risk to his/her own health and safety or to the health and safety of others.
  - (a) An applicant with a qualifying disability, who requires accommodation at the test site, shall:
    - (A) Submit a Request for Accommodation; and
    - (B) Submit documentation from the provider who rendered the diagnosis including:
      - (i) Specific diagnosis and testing limitations; and
      - (ii) Specific recommendation for accommodations;
      - (iii) Printed name, signature and business telephone number of the health care provider or professional; and
      - (iv) Signed release necessary to speak to provider about the condition as it relates to test taking.
  - (b) An applicant who has been ill or had a prescription from a health care provider or professional for temporary restriction of activities must present a medical release for full return to normal activity prior to taking the manual skills portion of the exam.
  - (c) English as a second language does not qualify for special testing accommodation.
- (2) Controls:
  - (a) Reference materials, including dictionaries, are prohibited at the test site.
  - (b) Translators, unless as an approved accommodation for a qualifying disability, are prohibited at the test site. This includes written materials or documents used for translating one language to another and electronic devices used for translation purposes.
- (3) Examination results shall be mailed to the applicant at the applicant's address of record and shall not be released by telephone.
- (4) Re-examination:
  - (a) A

n applicant who fails and is eligible to retake the competency examination shall submit the appropriate application and examination fee.

  - (b) An applicant who fails the competency examination three times must complete another Board-approved nursing assistant level 1 training program prior to re-examination.

- (5) Failure to take the examination or to reschedule the examination in advance will result in re-examination fees unless the absence has been excused by the testing service.
- (6) Current certification may be verified using the Board's automated verification line or internet verification system.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.442**

### **Renewal or Reactivation of Certification**

#### **851-062-0070**

- (1) The expiration date of a CNA certificate occurs biennially the midnight before the individual's birthdate:
  - (a) For individuals born in odd numbered years the certificate expires in odd numbered years.
  - (b) For individuals born in even numbered years the certificate expires in even numbered years.
  - (c) Persons whose birthdate falls on February 29 shall be treated as if the birthdate were March 1 for purpose of establishing the expiration date.
- (2) The certificate shall automatically expire if the CNA fails to renew by the expiration date.
  - (a) A CNA may not work as a CNA with an expired certificate.
  - (b) Failure to receive the application for renewal shall not relieve the CNA of the responsibility of renewing the certificate by the expiration date.
- (3) To renew certification a CNA shall, prior to the certificate expiration date:
  - (a) Submit a completed application using forms and instructions provided by the Board;
  - (b) Pay renewal fees established by the Board;
  - (c) Document paid employment:
    - (A) Document at least 400 hours of paid employment as a CNA within the CNA or CMA authorized duties, under supervision or monitoring by a nurse, in the two years immediately preceding the certificate expiration date.
    - (B) A CNA who has been certified for less than two years is exempt from the requirement in OAR 851-062-0070(3)(c)(A).
  - (d) A nursing assistant who cannot meet all the practice requirements for renewal in OAR 851-062-0070(3)(c)(A) may renew certification upon passing the competency examination.
    - (A) A nursing assistant has three attempts within two years of the expiration date on the certificate to pass the competency examination.
    - (B) A nursing assistant who fails to pass the competency examination in three attempts or within two years of the expiration date on the certificate may become certified by completing a Board-approved nursing assistant training program and then passing the competency examination.
- (4) To reactivate certification, within two years after the certificate expiration date:
  - (a) Submit a completed application using forms and instructions provided by the Board;
  - (b) Pay the fees established by the Board; and
  - (c) Document at least 400 hours of paid employment as a CNA under supervision or monitoring by a nurse, or the successful completion of the competency exam, within two years immediately preceding receipt of application.
  - (d) A nursing assistant who cannot meet all the requirements for reactivation in OAR 851-062-0070(4)(c) must apply for and pass the competency examination within three attempts and within two years of the expiration date on the certificate.
  - (e) A nursing assistant who fails to pass the competency examination in three attempts or within two years of the expiration date on the certificate may become certified by completing a Board-approved training program and then passing the competency examination.
- (5) Individuals whose CNA certificate has been expired for more than two years are required to take a Board-approved nursing assistant training program and pass the competency

examination according to OAR 851-062-0050(1) to reactivate certification.

- (6) An enrolled nursing student may renew without documentation of paid employment.
- (7) A former nursing student may use clinical practice hours in the nursing program within the last two years as part or all of the required 400 hours in lieu of paid employment.
- (8) Information provided to the Board to establish eligibility for renewal is subject to audit. Falsification of an application is grounds for disciplinary action.
- (9) An applicant for renewal must answer all mandatory questions on the application form, including those about employment and education.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **Reinstatement**

#### **851-062-0075**

An applicant for reinstatement of a CNA certification shall:

- (1) Meet all terms and conditions of reinstatement;
- (2) Submit a completed application and fee; and
- (3) Meet the requirements of OAR 851-062-0070.

### **Certification of Medication Aides Required**

#### **851-062-0080**

A CMA must have a current unencumbered Oregon CMA certificate and be listed on the Oregon CNA Registry prior to performing medication aide duties.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **CMA Certification**

#### **851-062-0090**

An applicant for CMA certification must submit a completed application using forms and instructions provided by the Board and pay the examination fee established by the Board. CMA certification may be obtained in one of the following ways:

- (1) Training and competency examination:
  - (a) Hold a current unencumbered Oregon CNA certificate. An applicant with an encumbered CNA certificate may be considered on an individual basis.
  - (b) Submit evidence of completion of an 80-hour Board-approved medication aide training program.
  - (c) Document, within the two years preceding application for medication aide examination:
    - (A) Six months full-time experience as a nursing assistant; or
    - (B) Equivalent experience in part-time employment as a nursing assistant.
  - (d) Pass the Board-administered medication aide examination.
- (2) Enrollment in an approved nursing program in any U.S. state or jurisdiction:
  - (a) Obtain CNA 1 certification according to these rules;
  - (b) Show evidence of satisfactory completion of three terms of nursing school, each of which must have included a clinical nursing component.
    - (A) The three terms combined must have included:
      - (i) Basic clinical skills;
      - (ii) Basic pharmacology;
      - (iii) Principles of medication administration; and
      - (iv) Math competency.
    - (B) The following will be considered satisfactory evidence of meeting the requirements for satisfactory completion of three terms:
      - (i) Official transcript of the nursing program verifying successful completion of three terms; or
      - (ii) A letter from the Dean or Director of the school of nursing verifying the completion of the required course content.
  - (c) Submit application and fee for CMA certification;

- (d) Pass the medication aide examination.
- (e) Nursing students are exempt from the requirement to:
  - (A) Complete a medication aide training program;
  - (B) Have six months experience as a nursing assistant.
- (3) Graduation from an approved nursing education program in the U.S.
  - (a) Obtain CNA 1 certification according to these rules; and
  - (b) Pass the medication aide examination.
  - (c) A graduate nurse is exempt from the requirements to:
    - (A) Complete a medication aide training program;
    - (B) Have six months experience as a nursing assistant.
- (4) Medication aide training in another state.
  - (a) Obtain Oregon CNA 1 certification according to these rules; and
  - (b) Submit evidence of successful completion of a medication aide training program equal in content to the Board-approved medication aide curriculum; and
  - (c) Document at least six months full-time experience performing CNA 1 authorized duties, or the equivalent in part-time experience, since completion of nursing assistant training and within the last two years preceding application; and
  - (d) Pass the medication aide examination:
- (5) Military corpsman or medic training and experience and competency examination:
  - (a) Obtain Oregon CNA 1 certification according to these rules; and
  - (b) Submit evidence of training that is equal in content to the Board-approved medication aide curriculum; and
  - (c) Verify at least six months full-time experience performing CNA 1 authorized duties or the equivalent in part-time experience in the two years prior to application; and
  - (d) Pass the medication aide examination.
- (6) RN or LPN Licensure in Oregon:
  - (a) Obtain CNA 1 certification according to OAR 851-062-0050(3); and
  - (b) Submit application and fee for CMA certification.
  - (c) A RN or LPN is exempt from the requirements to:
    - (A) Complete a medication aide training program;
    - (B) Have six months experience as a nursing assistant; and
    - (C) Pass the medication aide examination.
- (7) CMA Testing Eligibility:
  - (a) An applicant shall be eligible for examination for one year from the date of completion of the medication aide training program.
  - (b) A completed application shall be valid for the period of eligibility to test.
  - (c) An application process not completed within one year becomes void.
  - (d) An applicant who fails to pass the Board-administered medication aide examination within one year of completion of the training program and within three attempts shall not be eligible to reapply for the examination except that the applicant may re-enroll and successfully complete a Board-approved medication aide training program.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.442**

### **Medication Aide Examination**

#### **851-062-0100**

- (1) The medication aide examination shall be administered and evaluated only by the Board or by a Board-approved entity.
- (2) Examination sites and dates shall be determined by the Board or a Board-approved entity.
- (3) An applicant shall be eligible for examination for one year from the date of completion of the medication aide training program.
- (4) An application shall be valid for the period of eligibility to test.
- (5) An applicant who fails to pass the Board-administered medication aide examination within one year of completion of the training program and within three attempts shall not be eligible to re-apply for the examination except that the applicant may re-enroll and



successfully complete a Board-approved medication aide training program.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.442**

### **CMA Renewal and Continuing Education**

#### **851-062-0110**

Renewal of the CMA certificate is concurrent with the renewal of CNA 1 as described in these rules.

- (1) The CMA is required to:
  - (a) Participate in at least eight hours of medication related continuing education in the 24 months immediately prior to expiration of certificate and to submit documentation of attendance with the application for Renewal of CMA Certification.
    - (A) The following are acceptable methods of meeting the medication aide continuing education requirement:
      - (i) Facility-based classes dealing with the medications used at that facility;
      - (ii) Medication classes taught by a licensed nurse, pharmacist or representative of a pharmaceutical company;
      - (iii) Repeating classes offered for medication aide students;
      - (iv) Video material when used as part of a presentation by an instructor;
      - (v) Infection control classes when the content is medication related;
      - (vi) Noninjectable medication related continuing education in recognized nursing journals; or
      - (vii) Individual tutoring sessions by a nurse or pharmacist.
    - (B) The following are not acceptable toward meeting the medication aide continuing education requirement:
      - (i) TV programs;
      - (ii) Reading articles in non-nursing magazines;
      - (iii) CPR classes;
      - (iv) Classes dealing with injectable medications or IV medications; or
      - (v) Job orientation.
    - (C) A CMA who is enrolled in a basic nursing education program has satisfied the requirement for medication-related continuing education.
  - (b) Perform at least 400 hours of authorized medication aide duties under supervision or monitoring by a nurse in the 24 months immediately prior to expiration of certification.
  - (c) Affirm and document paid employment as a CMA under supervision or monitoring by a nurse and completion of continuing education.
  - (d) For a CMA who has been certified less than two years:
    - (A) The continuing education requirement will be prorated; and
    - (B) The paid employment requirement is waived.
- (2) A CMA who has not performed at least 400 hours of authorized medication aide duties under the supervision or monitoring by a nurse or has not completed the eight hours of medication-related continuing education in the 24 months immediately prior to expiration of certification must successfully complete the medication aide examination as a condition of renewing CMA certification. A CMA is eligible to renew by examination only if the individual has completed a CMA training program that was at least 80 hours in length.
- (3) Employment and continuing education are subject to audit by the Board. Falsification of employment or continuing education is grounds for disciplinary action.

**Stat. Auth: ORS 678.440, 678.442**

**Stats. Implemented: ORS 678.442**

### **Change of Name and Address of Record**

#### **851-062-0120**

- (1) Change of name:
  - (a) A certificate holder shall keep his/her current legal name on file with the Board at

- all times.
  - (b) The legal name currently on file with the Board shall be considered the name of record.
  - (c) At the time of a legal name change the CNA/CMA shall send a signed, written notification of change of name to the Board, accompanied by legal proof of that name change. Legal proof shall be in the form of a copy of a birth certificate, marriage certificate or a court order/decre.
  - (d) Upon receipt of written notification and legal proof of change of name the Board will change its records to reflect the CNA/CMA's name change.
  - (e) To obtain a duplicate certificate reflecting the name change the CNA/CMA shall submit an application and fee for a duplicate certificate.
- (2) Change of address:
- (a) A certificate holder shall keep his/her current home address on file with the Board at all times.
  - (b) The home address currently on file with the Board shall be considered the address of record.
  - (c) Upon receipt of notification from the CNA/CMA of a change of home address, the Board will change its records to reflect the CNA/CMA's current address.
  - (d) The Board will send all correspondence and all official documents, including certificate renewal notices and Notices of Proposed Disciplinary Action to the CNA/CMA's address of record.
  - (e) A Notice of Proposed Disciplinary Action sent to the CNA/CMA at the person's address of record by certified mail or registered mail is sufficient notice even if the person fails to or refuses to respond to the postal service "return receipt" and never receives the Notice. Such mailing permits the Board to proceed with disciplinary action in the absence of a request for hearing.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **CNA Registry 851-062-0130**

In accordance with 42 CFR § 483.156 the Board maintains a CNA Registry. The Registry contains:

- (1) Identifying demographic information on each CNA;
- (2) Date of initial and most recent certification;
- (3) Board sanctions against a CNA certificate; and
- (4) Findings of resident abuse, neglect or misappropriation of resident property, made by Seniors and People with Disabilities (SPD) against a CNA.

**Stat. Auth: ORS 678.442**

**Stats. Implemented: ORS 678.442**

### **State and Nationwide Criminal Records Checks, Fitness Determinations 851-062-0135**

- (1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.
- (2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.
- (3) The Board may require fingerprints of all initial applicants for a Registered Nurse (RN), Licensed Practical Nurse (LPN), Nurse Practitioner (NP), Clinical Nurse Specialist (CNS), Certified Registered Nurse Anesthetist (CRNA), Certified Nursing Assistant, or Certified Medication Aide license, licensees renewing their license, and licensees under investigation to determine the fitness of an applicant or licensee. (All categories above are referred to as "licensee" for the purpose of these rules.) These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law

enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a national Criminal Records Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

- (4) The Board shall determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If a licensee is determined to be unfit, the licensee's license may not be renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.
- (5) Except as otherwise provided in section (2), in making the fitness determination the Board shall consider:
  - (a) The nature of the crime;
  - (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
  - (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and
  - (d) Intervening circumstances relevant to the responsibilities and circumstances of the license, intervening circumstances include but are not limited to:
    - (A) The passage of time since the commission of the crime;
    - (B) The age of the applicant or licensee at the time of the crime;
    - (C) The likelihood of a repetition of offenses or of the commission of another crime;
    - (D) The subsequent commission of another relevant crime;
    - (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
    - (F) A recommendation of an employer.
- (6) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.
- (7) In order to conduct the Oregon and National Criminal Records Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.
- (8) Criminal offender information is confidential. Dissemination of information received under House Bill 2157 (2005 Legislative Session) is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 678.126.
- (9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.
- (10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.
- (11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.
- (12) If the applicant discontinues the application process or fails to cooperate with the criminal

records check process, the application is considered incomplete.

**Stat. Auth.: ORS 678.150, 678.153**

**Stats. Implemented: ORS 678.126, 678.153**

**851-062-0135 adopted 4/12/07**

**851-062-0010 amended 11/17/05**

**851-062-0055 amended 6/16/05**

**851-062-0010, 0070 amended 2/12/04**

**851-062-0005, 0015, 0016, 0055, 0075 adopted, 851-062-0010, 0020, 0050, 0070, 0090, 0100, 0110, 0120 0130 amended, and 851-062-0040, 0060 repealed 11/20/03**

**851-062-0010, 851-062-0020, 851-062-0030, 851-062-0040, 851-062-0050, 851-062-0060, 851-062-0070, 851-062-0080, 851-062-0090, 851-062-0100, 851-062-0110, 851-062-0120 and 851-062-0130 adopted 6/17/99**