



## General Information About Safe Harbor

Safe harbor is discussed in Texas Board of Nursing (Board or BON) Rule [217.20](#) and in Chapter [303](#) of the Texas Occupations Code (Nursing Peer Review Law or NPR Law). Safe harbor is a process that protects a nurse from discipline by the Board and retaliation, suspension, termination, discipline, or discrimination from the employer for invoking safe harbor in good faith. [Board Rule [217.20](#)(a)(6) & (a)(15); NPR Law [§303.005](#)(c)]

If a person required to have a nursing peer review committee (which is based upon the number of nurses regularly employed, hired, or contracted) requests a nurse to engage in conduct that the nurse believes violates a nurse's duty to a patient and/or could result in a violation of the Texas Nursing Practice Act (NPA) or Board rules, the nurse may request a safe harbor nursing peer review determination of whether the requested conduct or assignment violates a nurse's duty to a patient. [NPR Law [§303.0015](#) & [303.005](#)(b)]

Safe harbor must always be invoked **PRIOR TO** engaging in the conduct or assignment at any of the following times:

- when the conduct is requested or assignment is made,
- when changes occur in the request or assignment that so modify the level of nursing care or supervision required compared to what was originally requested or assigned that a nurse believes in good faith that patient harm may result, or
- when the nurse refuses to engage in the requested conduct or assignment. [Board Rule [217.20](#)(d)(1)]

The nurse must notify the supervisor who requested the conduct or assignment in writing that the nurse is invoking safe harbor. The content of the initial notification must meet the requirements for a [Safe Harbor Quick Request](#). If a nurse is unable to document such due to immediate patient care needs, the nurse may orally invoke safe harbor by notifying the nurse's supervisor of the request; and, in that event, the nurse's supervisor must record in writing the requirements for a Safe Harbor Quick Request. Either way, a detailed written account of the safe harbor invocation that meets the requirements of a [Comprehensive Written Request for Safe Harbor Nursing Peer Review](#) must be completed by the nurse before leaving the work setting at the end of the work period. A nurse invoking safe harbor to question the medical reasonableness of a physician's order in accordance with NPR Law [§303.005](#)(e) and Board Rule [217.20](#)(d)(6) must follow the same process described above.

To secure the safe harbor protections outlined in the [NPR Law](#) and Board Rule [217.20](#), the nurse must invoke safe harbor appropriately and in good faith. BON Staff have designed safe harbor forms to help nurses properly capture all of the information required for a valid safe harbor invocation. Use of the BON's form is not required by a BON law or rule. The necessary information may be documented in any format, provided it is in writing and contains the information required by the [NPR Law](#) and Board Rule [217.20](#). Your facility should have additional policies and procedures concerning safe harbor and may require use of a specific form.

A nurse invoking safe harbor may engage in the requested conduct or assignment while awaiting the nursing peer review determination UNLESS the conduct or assignment:

- would constitute unprofessional conduct (please see Board Rule [217.12](#)) and/or criminal conduct, i.e., fraud, theft, patient abuse, exploitation, or falsification; or
- would be beyond the nurse's scope, meaning the nurse lacks the basic knowledge, skills, and abilities that would be necessary to render the care or engage in the conduct requested or assigned at a minimally competent level such that engaging in the requested conduct or assignment would expose one or more patients to an unjustifiable risk of harm.