

Safe Harbor Nursing Peer Review (SHNPR)

A Resource

NPR Law §303.005 Board Rule 217.20

Safe Harbor (SH):

A process that protects a nurse from employer retaliation, suspension, termination, discipline, discrimination, and licensure sanction when a nurse makes a good faith request for nursing peer review of an assignment or conduct the nurse is requested to perform and that the nurse believes could result in a violation of the Nursing Practice Act (NPA) or Board rules.

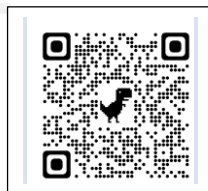
Key Points

- ✚ Must be invoked in good faith.
- ✚ Must be invoked prior to engaging in the conduct or assignment for which nursing peer review is requested.
- ✚ Must be invoked by notifying the nursing supervisor in writing, or verbally if the nurse is unable to complete a written request due to immediate patient needs.
- ✚ At the end of the shift a comprehensive written request must be completed and submitted to the nurse supervisor before leaving the practice setting.
- ✚ Do not submit SHNPR requests to the Board of Nursing.

Included in the resource:

- ✚ The Who, Where, When, Why, and How of SHNPR.
- ✚ A decision tree for invoking Safe Harbor and Accepting an assignment.
- ✚ A decision tree for invoking Safe Harbor and Refusing an assignment.
- ✚ A decision tree for Conduct/Behavior request.
- ✚ Safe Harbor Quick Request and Comprehensive Request information.
- ✚ Exclusions of Safe Harbor protections.
- ✚ Timeline of Nursing Peer Review in Texas.
- ✚ Definition of selected terms.

For quick access to a digital copy of the SHNPR resource, here is a QR code that can be shared and scanned to offer immediate access:



THE WHO, WHERE, WHY, WHEN AND HOW OF SHNPR

WHO CAN INVOKE SHNPR?

- + Licensed Vocational Nurses (LVNs)
- + Registered Nurses (RNs)
- + Advanced Practice Registered Nurses (APRNs)

WHERE IS SHNPR AVAILABLE?

If your employer employs, hires or contracts eight (8) or more nurses, Texas Occupations Code §303.0015 (NPR Law) requires the establishment of a nursing peer review committee.

(For nursing peer review of an RN, at least four (4) of the 8 must be RNs).

WHY WOULD ONE INVOKE SHNPR?

When a nurse believes in good faith, an assignment or conduct requested may:

- + Violate his/her duty to a patient.
- + Result in patient harm.
- + Violate the NPA.
- + Violate Board Rules.

WHEN SHOULD ONE INVOKE SHNPR?

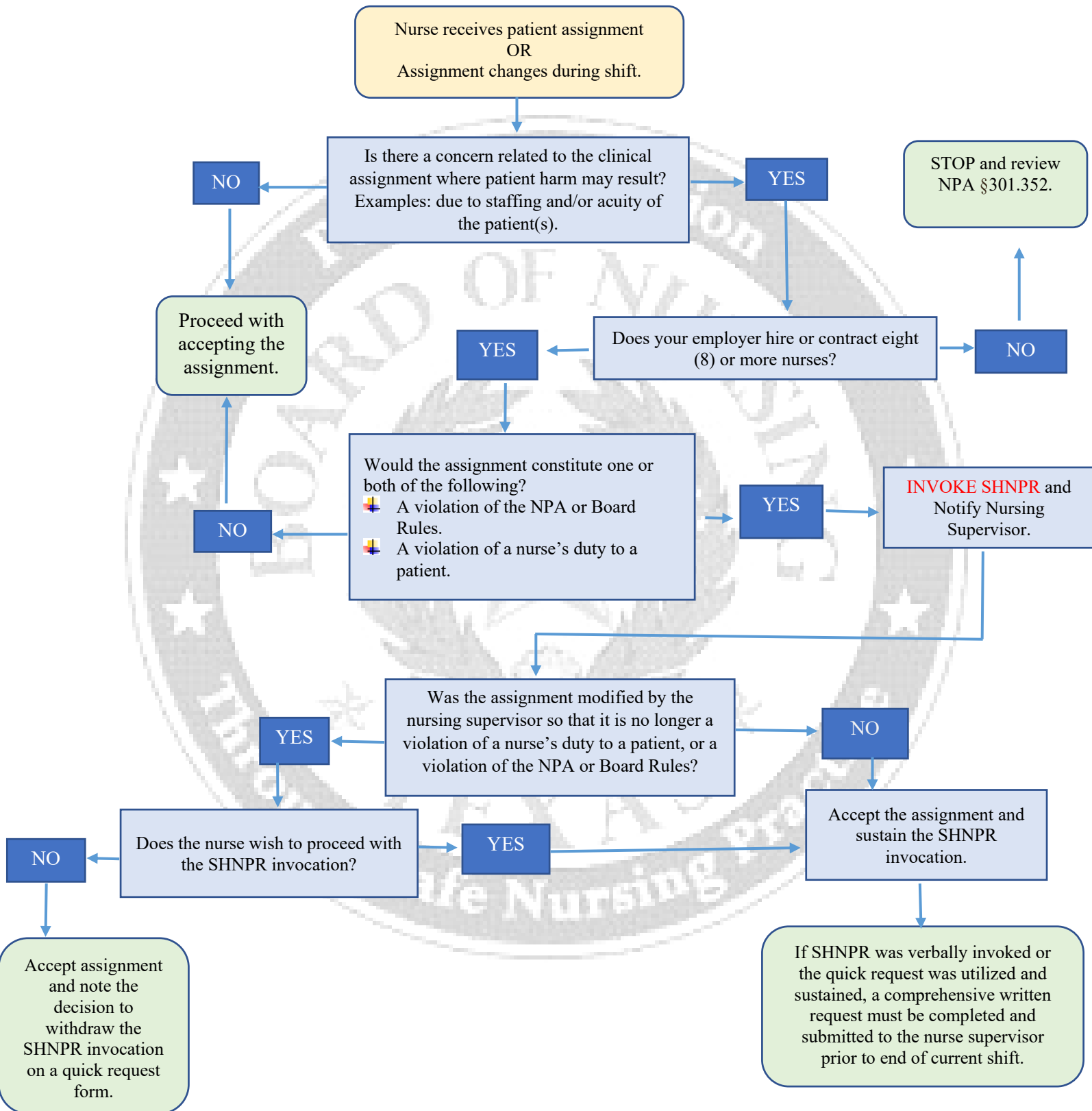
- + Safe harbor must be invoked prior to engaging in the conduct or assignment for which nursing peer review is requested.
- + When the nurse is requested or assigned to engage in conduct that the nurse believes is in violation of his/her duty to a patient.
- + When changes occur in the request or assignment that so modifies 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.
- + When the nurse refuses to engage in the requested conduct or assignment.

HOW CAN ONE INVOKE SHNPR?

- + Written invocation – submit a safe harbor quick request or comprehensive written request to nurse supervisor.
- + Verbal invocation – orally notify nurse supervisor if unable to complete a written request due to immediate patient needs.

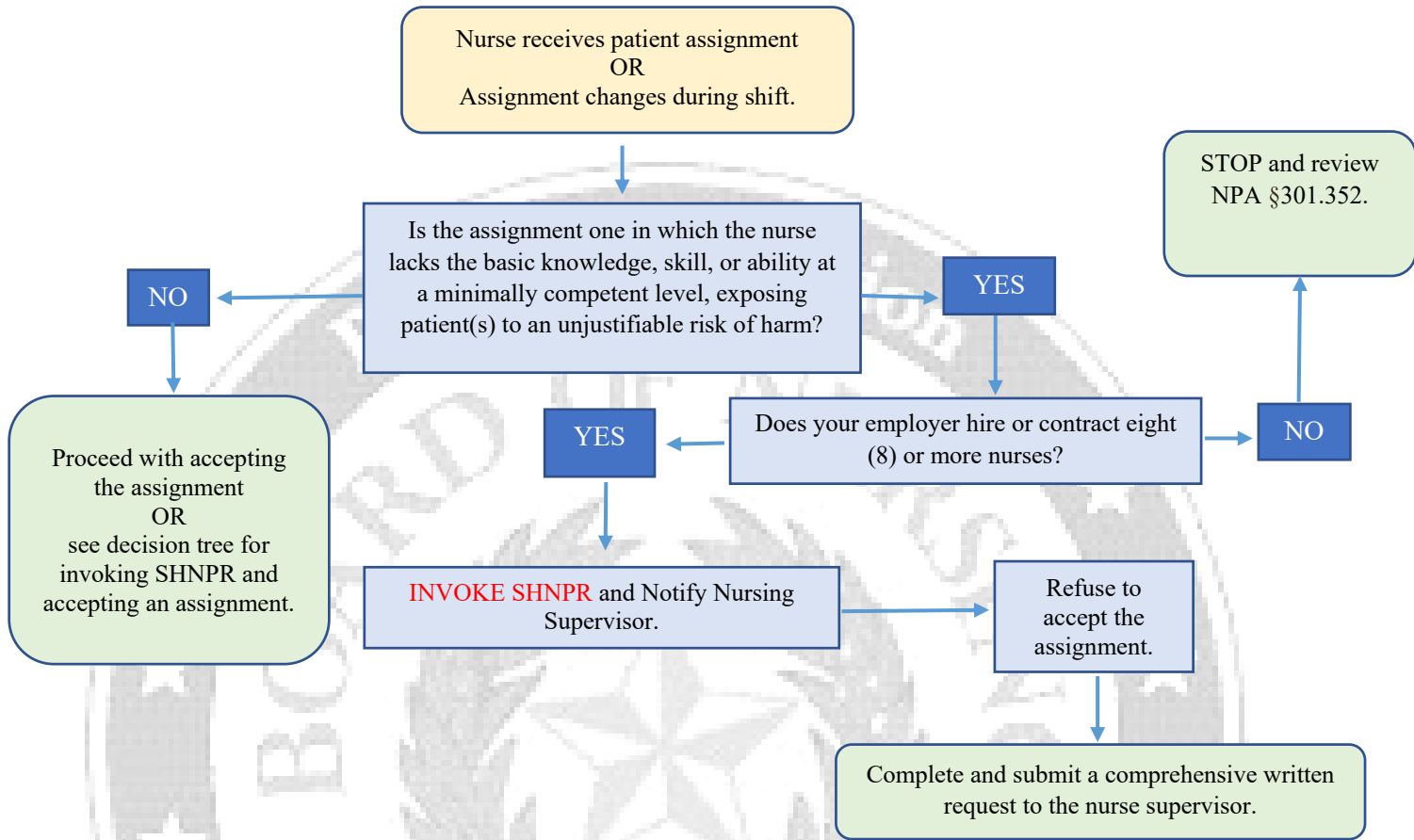
NOTE: A comprehensive request must be completed before leaving the practice setting if a written quick request or verbal invocation was utilized.

Decision Tree for Invoking Safe Harbor and ACCEPTING an Assignment



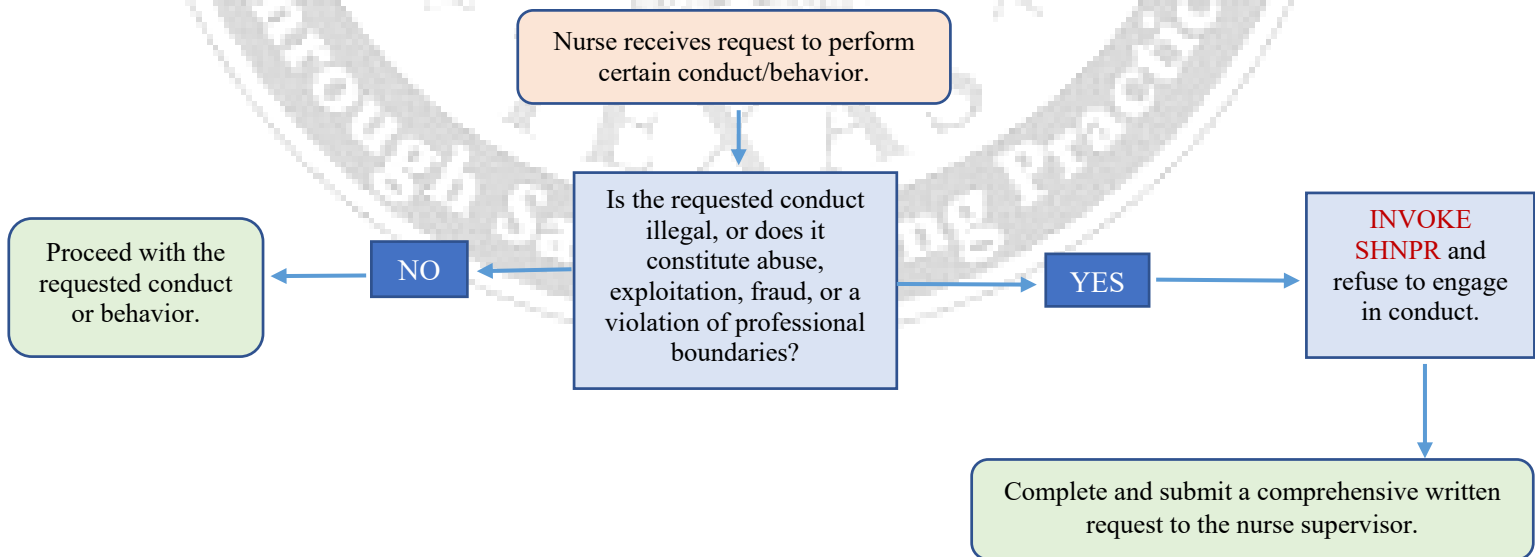
Please use this flow chart in conjunction with Board Rule 217.20

Decision Tree for Invoking Safe Harbor and REFUSING an Assignment



Please use this flow chart in conjunction with Board Rule 217.20

Decision Tree for Conduct/Behavior Request



Please use this flow chart in conjunction with Board Rule 217.20

Safe Harbor Quick Request

The Safe Harbor Quick Request is a written documentation of the invocation of SHNPR before accepting an assignment. The request can be in any written format but ***MUST*** include:

- ✚ The name of the nurse making the request and his/her signature.
- ✚ The date and time of the request.
- ✚ The location where the conduct or assignment that is subject of the request occurred.
- ✚ The name of the person who requested the nurse engage in the conduct or made the assignment that is subject of the request.
- ✚ The name of the supervisor recording the request, if applicable.
- ✚ A brief explanation of why the nurse is requesting a nursing peer review committee determination.
- ✚ A description of the collaboration between the nurse and the supervisor, if applicable.

The BON has a Safe Harbor Quick Request Form that can be utilized, see link below.

https://www.bon.texas.gov/pdfs/safe_harbor_forms_pdfs/BONSafeHarborQuickRequestForm.pdf

Safe Harbor Comprehensive Request

- ✚ Should be completed and submitted to the nurse supervisor before the end of the shift and prior to leaving the practice setting.
- ✚ Should include any event/s that happened during the shift that supports the concerns for the SHNPR invocation.

The BON has a Comprehensive Written Request for SHNPR, see link below.

https://www.bon.texas.gov/pdfs/safe_harbor_forms_pdfs/BONComprehensiveWrittenRequestforSafeHarborNursingPeerReview.pdf

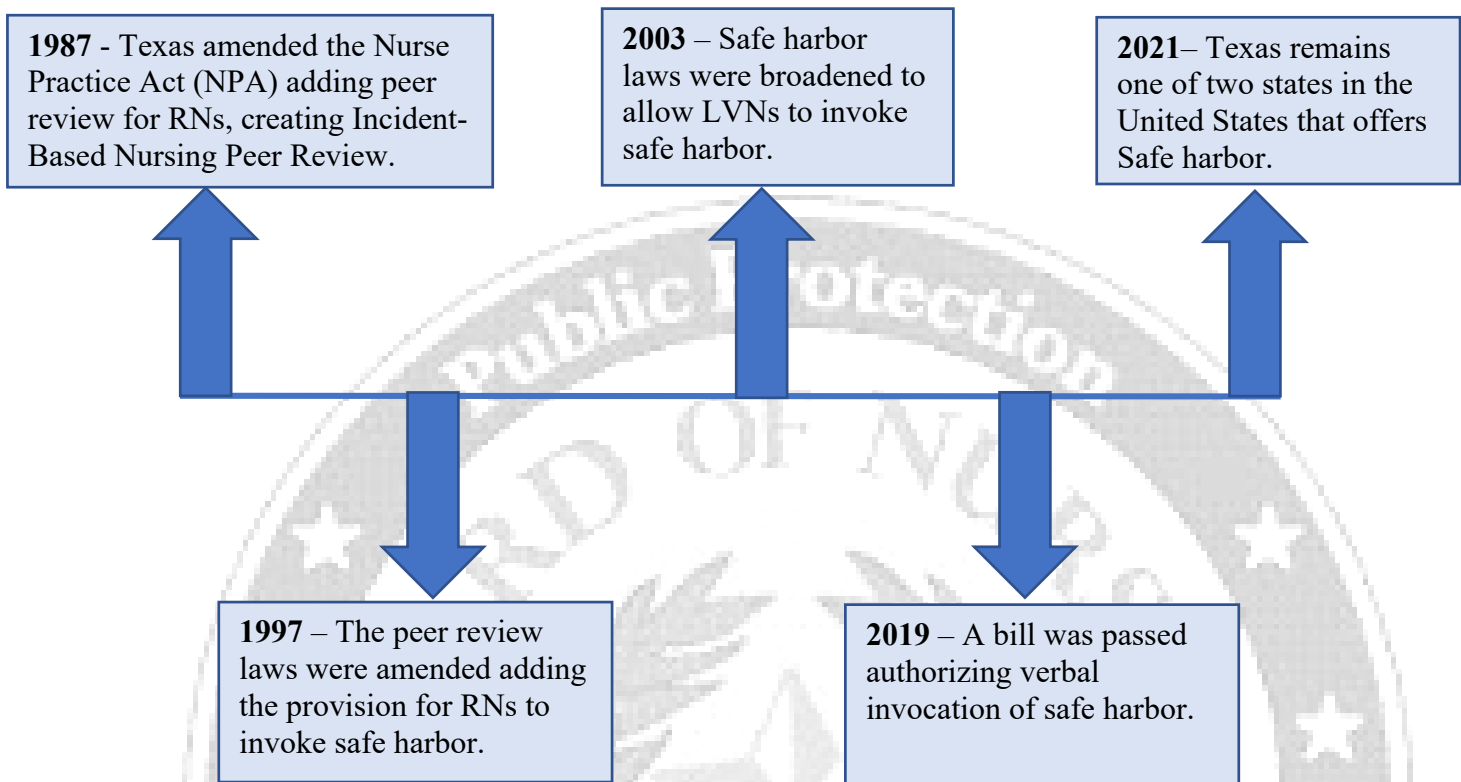
For access to SHNPR Forms, scan here:



If you
experience
retaliation after
SH invocation
refer to NPA
§301.413.

EXCLUSIONS OF SAFE HARBOR PROTECTIONS

- ✚ A nurse who invokes safe harbor in bad faith.
- ✚ Conduct the nurse engages in prior to the request for safe harbor.
- ✚ Conduct unrelated to the reason for which the nurse requested safe harbor.



Definitions

Assignment - Designated responsibility for the provision or supervision of nursing care for a defined period of time in a defined work setting. This includes but is not limited to the specified functions, duties, practitioner orders, supervisory directives, and amount of work designated as the individual nurse's responsibility. Changes in the nurse's assignment may occur at any time during the work period.

Bad Faith - Knowingly or recklessly taking action not supported by a reasonable factual or legal basis. The term includes misrepresenting the facts surrounding the events under review, acting out of malice or personal animosity towards the nurse, acting from a conflict of interest, or knowingly or recklessly denying a nurse due process.

Conduct – To act or behave in a particular manner. (Merriam-Webster)

Good Faith -Taking action supported by a reasonable factual or legal basis. Good faith precludes misrepresenting the facts surrounding the events under review, acting out of malice or personal animosity, acting from a conflict of interest, or knowingly or recklessly denying a nurse due process.

Duty to a patient - A nurse's duty is to always advocate for patient safety, including any nursing action necessary to comply with the standards of nursing practice (§217.11) and to avoid engaging in unprofessional conduct (§217.12). This includes administrative decisions directly affecting a nurse's ability to comply with that duty.

Board’s position statement 15.14 Duty of a Nurse in any Practice Setting.