



Texas Board of Nursing
**Comprehensive Request for Safe
Harbor Nursing Peer Review**
and
Documentation Form

DO NOT FAX OR MAIL THIS FORM TO THE BON
(Please See Instructions Below)

Safe Harbor Peer Review Instructions:

The Nurse's Request for Safe Harbor must be made **before** accepting the assignment (including any point during the work period when the assignment changes) **and** the request **MUST** be made **IN WRITING**.

An employer or supervisor cannot deny a nurse the right to invoke Safe Harbor whether the nurse is accepting or refusing the requested assignment [Board Rule 217.20(c)], A supervisor's refusal to accept or to sign a nurse(s) request for safe harbor **does not** render the request(s) invalid. A nursing supervisor who refuses to allow a nurse to invoke Safe Harbor can be reported to the Board <http://www.bon.texas.gov/about/complaint/html> for violating the nurse's due process rights under Nursing Peer Review 303.005(g) and Board Rule 217.20(h).

- (1) If necessary, submit a **Quick Request for Safe Harbor** form to the supervisor making the assignment or directive, or requesting the conduct you believe is unsafe/violates your duty to keep the patient(s) safe. [Not required if the nurse has time to complete the Comprehensive Request form at the time the assignment, directive, or conduct is requested.] **ANY WRITTEN FORM/FORMAT IS ACCEPTABLE TO INITIATE SAFE HARBOR. REMEMBER TO KEEP A COPY.**

Board Rule 217.20 permits a nurse to complete a **Quick Request for Safe Harbor** form if he/she does not have time to complete this Comprehensive Request at the time of the assignment that is the cause for invoking Safe Harbor. However, the nurse **MUST** submit **information that equates to that listed in Section I of this Comprehensive Written Request for Safe Harbor form and Board Rule 217.20(d)(4) by the end of the work period and before leaving the practice setting.** The nurse's supervisor who requested the assignment or conduct should complete **Section II (1) by the end of the work period.**

- (2) **Nurse's Right to Refuse an Assignment/ Required Collaboration**

A nurse invoking Safe Harbor may engage in the requested assignment or conduct while awaiting peer review determination unless the conduct or assignment is one that:

- Would constitute unprofessional or criminal conduct, such as fraud, theft, patient abuse, exploitation, or falsification, **or**
- The nurse lacks the basic knowledge, skills, and abilities necessary to competently perform the assignment. In other words, the assignment is beyond the nurse's individual scope of practice, and accepting the assignment is likely to expose one or more patients to an unjustifiable risk of harm. For example: a nurse who has only worked in adult med/surg is floated to the neonatal ICU and assigned total care of a ventilated infant on multiple vasoactive drips.

Required Collaboration:

Board Rule 217.20(e) and NPA §301.352 provide protections from retaliation for refusing to engage in conduct or an assignment for the nurse who makes a valid, good faith request for Safe Harbor. If the **nurse** refuses to collaborate with the supervisor or leaves the work setting without collaborating with the nursing supervisor, the nurse may be acting in bad faith with regard to a Safe Harbor request and may be reportable to the board.

If the **nursing supervisor** making the assignment refuses to collaborate with the nurse in a good faith effort to determine if a safe assignment is possible, the nursing supervisor may be reported to the BON for acting in bad faith with regard to alleged violations of Chapter 303 Nursing Peer Review Law, Rule 217.20, and other board statutes and rules as may apply.

- (3) Submit the **Comprehensive Written Request for Safe Harbor** by the end of the work period and before leaving the practice setting. The nurse(s) may include other supporting documents at a later time, but *the written comprehensive request must be submitted to a supervisor by the end of the work period and prior to leaving the work setting. REMEMBER TO KEEP A COPY.*
- (4) The Supervisor should sign the form and the nurse's copy, and submit the form to the Peer Review Chairperson since a peer review meeting to review the request must be set within 14 days of the nurse invoking Safe Harbor. This same time frame applies if the nurse agrees to work with a smaller workgroup of the peer review committee to review the request.
- (5) **Even if a satisfactory solution is worked out at the time; the nurse(s) still has (have) the option of continuing with the request for a peer review committee (or smaller workgroup of the peer review committee) to review and discuss the reason(s) for the request for Safe Harbor.** The nurse(s) may also choose to withdraw their request; however, written documentation of this decision with signatures must still be turned over to the peer review chair for record keeping purposes.

Please see *BON* web page <http://bon.texas.gov> for additional resources on Safe Harbor

COMPREHENSIVE REQUEST FOR NURSING SAFE HARBOR PEER REVIEW (SHPR)

NOTE: ONLY SECTION I (pages 3-6) MUST BE COMPLETED BY THE NURSE WHEN INITIALLY INVOKING SAFE HARBOR

A nurse's request for Safe Harbor Must be in Writing, however, use of this form is not required for a nurse to invoke Safe Harbor. Any request for safe harbor, be it on this form or in any other written form or format, is subject to confidentiality requirements of NPA (TOC) §303.006, §303.007, §303.0075, and Board Rule 217.20.

Date: _____ Time: _____ Location: _____

I. NURSE'S REQUEST Check if you completed a Quick Request for Safe Harbor Peer Review: date _____ time _____ (**Skip to #3 and attach Quick Request Form copy to this Comprehensive Request*)

(1) I (we) are invoking Safe Harbor and requesting a Safe Harbor peer review for the following requested conduct or assignment because I (we) believe in good faith that the conduct/assignment requested would potentially cause me (us) to violate my(our) duty to maintain a safe environment and provide safe nursing care to a patient(s) or client(s), **or** would constitute unprofessional conduct under BON statutes and rules, or criminal conduct.

I (we) request that a Safe Harbor Peer Review Committee (SHPRC) examine the facts and evidence of the situation described below to make a determination if compliance with the requested conduct or assignment is one that would cause me (us) to place patients at risk of harm, and thus violate our duty under standards §217.11(1)(B) and (1)(T), or any other BON statutes or rules.

I (we) understand that unless the conduct or assignment requested would constitute:

- A. Unprofessional conduct (Board Rule 217.12)
- B. A criminal act, or
- C. An act that the nurse is unable to perform because he/she lacks the competency required to provide care that meets minimal standards of acceptable nursing practice

that I (we) may accept the assignment and carry it out to the best of my(our) ability, without fear of risking licensure action by the Texas Board of Nursing.

The following nurse(s) hereby attest that we are invoking Safe Harbor:

Print Full Name and Type of License (LVN, RN)

Nurse's Signature

1. _____

2. _____

3. _____

[Attach additional names separately in writing if necessary]

(2) Name of person requesting the conduct or making the assignment (include licensure, job title or responsibility at the above date/time):

*(3) Describe your professional or reporting relationship to the supervisor/person requesting the conduct or assignment on this date/time:

(4) Describe the conduct requested, or the assignment or directive received (if possible, attach photocopy if the request is in written form):

(5) Describe the practice setting (hospital, nursing home, home health, etc.), your responsibilities, and the resources available to you:

- | | |
|---|---|
| <input type="checkbox"/> Acute Care/Hospital (type of unit) _____ | |
| <input type="checkbox"/> Long-Term Care/Nursing Home | <input type="checkbox"/> Nursing Instructor/Faculty |
| <input type="checkbox"/> Home Health | <input type="checkbox"/> Community/Public Health |
| <input type="checkbox"/> Clinic (type) _____ | <input type="checkbox"/> Other (explain below) |
| <input type="checkbox"/> School Nurse | _____ |

Position: Staff Nurse Charge Nurse Nurse Manager/Supervisor Other (explain below)

(6) Describe in detail, how the conduct requested would violate your duty to provide a safe environment and safe nursing care to a patient(s). If the conduct is patient specific, identify each affected patient by his/her initials and medical record number. It may be helpful, but is not required, to reference the standards in Board Rule 217.11 you feel may be violated, and the patient safety concerns of the proposed conduct or assignment. *Continue on separate paper and attach if necessary.*

- (7) Please attach and list below any written materials (documents, forms, policies, diagrams, records, procedures, published literature or standards from nursing professional organizations, etc.) that you believe are pertinent to this request for Safe Harbor Peer Review. If some or all of the attachments are not readily available at the time this request is completed, they may be submitted to the Peer Review Committee and noted here at a later date/time prior to or at the time of the peer review hearing.

- (8) If you think that the conduct or assignment could be carried out (without violation of your duty to a patient) if modified or if changes were made in the practice setting, describe the necessary modifications or changes. *Continue on separate paper and attach if necessary.*

- (9) Nurse's Refusal to Accept Assignment Under Board Rule 217.20(g)(2)

Board Rule 217.20(g)(2) requires both the nurse and supervisor to collaborate when the nurse refuses to engage in the requested conduct/assignment pending determination by the Safe Harbor Peer Review Committee (SHPRC). If the nurse refuses to collaborate with the supervisor or leaves the work setting without collaborating with the supervisor, the nurse may be acting in bad faith with regard to a Safe Harbor request and may be reportable to the board.

If the conduct requested would constitute unprofessional or criminal conduct, collaboration between the nurse and supervisor is not required, however, any alternative assignment or conduct requested by the supervisor must not require the nurse to engage in unprofessional or criminal conduct.

I (we) believe in good faith that I(we) cannot accept the assignment requested because
(Mark the ONE Applicable Box Below):

- (A) I (we) lack the basic knowledge, skills, and abilities necessary to render the care assigned/conduct requested at a minimally competent level. I (we) believe that engaging in the assignment/conduct requested pending peer review committee determination would expose one or more patients to an unjustifiable risk of harm.

On _____(date/time), the patient safety concern raised by the nurse(s) initiating Safe Harbor Peer Review was jointly reviewed with _____, who is the supervisor who made the assignment.

Please provide a description of the resolution of the issue, or the rationale if unable to agree upon a safe assignment below (attach other pages as necessary):

<u>Name of Nurse(s) Initiating</u>	<u>Date/time</u>	<u>Name of Supervisor</u>	<u>Date/time</u>
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- (B) I (we) believe that the assignment or conduct requested would constitute unprofessional conduct under the BON statutes and rules, or criminal conduct such as fraud, theft, falsification of records, patient abuse or exploitation, etc. See Nursing Practice Act Section 301.452, Board Rule 217.12, and applicable BON Disciplinary Sanction Policies <http://www.bon.texas.gov/disciplinaryactions/dsp.html>

(10) Nurse's Decision to Sustain or Withdraw Request for Safe Harbor Peer Review

The situation described in either (A) or (B) above has been

- satisfactorily resolved at this time and for this instance; or
- remains unresolved at this time and for this instance.

I (we), being the nurse(s) who initiated this request for Safe Harbor, wish to:

- Withdraw my (our) request for Safe Harbor and for a review by the peer review committee; or
- Sustain my (our) request for Safe Harbor and for a review by the Peer Review Committee (or physician if questioning the medical reasonableness of a physician order; see separate form) of the requested conduct, assignment or directive.

II SUPERVISOR ACTIONS

(1) Acknowledgment of Receipt of Request for Safe Harbor

Comprehensive Request for Safe Harbor delivered to Supervisor by:
_____ (Nurse requesting Safe Harbor)

Supervisor (name/signature) receiving Comprehensive Request for Safe Harbor form: _____

Date: _____ Time: _____ Location: _____

Supervisor's Comments and Actions

- See Quick Request Form or other document (describe below) of initial request for Safe Harbor:

Comments: _____

- (2) On _____ (date/time) I delivered the Quick Request (if applicable) and Comprehensive Request for Safe Harbor along with any accompanying documents supplied by the nurse(s) invoking Safe Harbor to the Peer Review Chairperson, who is: _____
(Name of Peer Review Chairperson)

(Signature of supervisor/title) (date/time)

III. REPORT OF PEER REVIEW COMMITTEE

- (1) The Safe Harbor Peer Review Committee met to consider this request for Safe Harbor as follows:

Date: _____ Time: _____
Location: _____

- The nurse(s) requesting Safe Harbor were notified of the above meeting of the Safe Harbor Peer Review Committee (SHPRC) and given the opportunity to attend the meeting and offer testimony/answer questions in relation to this request for Safe Harbor. **(Attach original green card returned w/ or w/o signature, and copy of envelope w/address mailed to and copy of dated notice of peer review letter).**

- (2) The Safe Harbor Peer Review Committee determined on the above date/time/location that the requested conduct, assignment, or directive:

- Would have/Did violate the nurse's duty to the patient(s); or
- Would not have/Did not violate the nurse's duty to the patient(s)

(3) Rationale for Safe Harbor Peer Review Committee determination:

(4) On _____ (date/time), this form was returned to the CNO/nurse administrator.

Signature of SHPRC Chair or Representative

Signature of CNO/Nurse Administrator

IV. REVIEW BY CNO/NURSE ADMINISTRATOR

(1) I have reviewed the SHPRC report and determined on _____ (date/time) that the peer review committee:

- correctly determined the nurse's duty to the patient(s); or
- did not correctly determine the nurse's duty to the patient(s).

(2) Rationale: _____

(3) CNO/Nurse Administrator Action:

- Withdraw or cancel requested assignment, directive, conduct effective _____ (date) _____ (time).
- Modified the request, assignment, or directive as follows:

- Made the following changes in the practice setting:

- Noticed the nurse(s) who invoked this request for Safe Harbor that the assignment, conduct, or directive stands as originally issued. I realize that no facility policy or directive from a CNO, nurse administrator, physician, or any other person can diminish or supersede a nurse's duty to his/her patients [Board Rule 217.11(1)(B) and Position Statement 15.14 Duty of a Nurse In Any Setting].

In accordance with Board Rule 217.20(j)(4)(B), if the CNO or nurse administrator disagrees with the decision of the SHPRC, the CNO or nurse administrator must document the rationale for disagreeing with the Peer Review Committee, and this documentation becomes a part of the permanent peer review record (see #2 above).

(4) On _____ (date/time [must be no later than 48-hours after receiving determination from SHPRC]), this form and attachments were returned to:

- The nurse(s) who initiated the request for SHPRC determination (original to nurse); and
- The Peer Review Chair Person for maintenance with peer review committee records retention policy (permanent scanned electronic copy recommended) (copy of Safe Harbor request and attachments).

Signature of CNO/Nurse Administrator Date

Signature of Nurse(s) Initiating Safe Harbor Date

Signature of SHPRC Chairperson Date

V. SAFE HARBOR PROTECTIONS TERMINATION DATE

The protections from Board of Nursing action on a nurse's license under Texas Occupations Code, Section 301.352 and Chapter 303 end for the nurse(s) making the request **48 hours** after the peer review committee's determination is received by the nurse(s) who initiated the Safe Harbor [Board Rule 217.20(i)(3)].

In accordance with Board Rule 217.20(e)(2), this does not affect the protections under the Nursing Peer Review Law section and the Nursing Practice Act section 301.352 relating to a nurse's protection from disciplinary action or discrimination for making a request for Safe Harbor Peer Review [303.005(c)(1) and 303.005(h)].

On _____ (date/time) I received the findings of the Peer Review Committee in writing as noted in Section IV of this form.

Nurse(s) Who Initiated Peer Review Date

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