

TEXAS PATIENT ADVOCACY AND WHISTLEBLOWER PROTECTIONS

Texas Law	Conduct Covered <i>(Each law or rule varies in requiring the nurse to report or act in good faith, not in bad faith, or without malice.)</i>	Retaliation Prohibited	Complaint Can Be Filed With Agency Having Oversight Authority Of Retaliating Entity and/or Retaliating Individual	Nurse Can File A Lawsuit for Damages Against Retaliating Entity
Traditional Advocacy and Whistleblower Protections				
Refusal to Engage in Conduct that Would Violate NPA or BON Rule NPA ² §301.352	Nurse refusing to engage in conduct that would violate NPA or BON rule or make nurse reportable to BON	Yes	Yes	Yes. ⁶
Reporting a Patient Care Concern within Facility NPA §301.4025	Nurse reporting concern within facility about patient(s) being exposed to substantial risk of harm due to failure of facility or practitioner to conform to minimum professional standards or regulatory/accreditation standards	Yes	Yes	Yes. ⁶
Reporting Staffing Concerns in Hospitals H&S Code ³ §257.003 DSHS Rules ⁴ §133.41(o)(2)(G), §133.43	Nurse reporting of staffing concerns in hospital to nurse staffing advisory committee	Yes	Yes	Yes. ⁶
Reporting a Practitioner or Facility/Agency to Regulatory/Accrediting Body NPA §301.4025	Nurse reporting a facility or practitioner for exposing a patient to substantial risk of harm due to failure to conform to minimum professional standards or regulatory/accreditation standards	Yes	Yes	Yes. ⁶
Mandatory Reporting of Nurse NPA 301.402	Nurse reporting a nurse to BON or to nursing peer review who engages in conduct subject to mandatory reporting	Yes	Yes	Yes. ⁶
Negative Job Reference Labor Code §103.003	Nurse requesting safe harbor nursing peer review or refusing to engage in conduct that would violate NPA or BON Rules	Information cannot be disclosed in job reference	No specific provision for filing complaint	Yes. ⁶ Subject to Labor Code §103.004
Health Workers Whistleblower Laws Not Specific to Nurses H&S Code §§161.134 (hospitals), 242.133 (long-term care), 142.0093 (home health)	Conduct covered varies with each law	Yes	Yes	Yes. ⁶ Subject to H&S Code §161.134
Law Specific To All Public Employees Govt Code ⁵ 554.002	Nurse employed by a governmental entity who reports violation of law to appropriate law enforcement or regulatory agency	Yes	Yes	Yes, subject to Govt Code Ch 554
Nontraditional Advocacy Protections				
Safe Harbor Nursing Peer Review NPR Law ¹ §303.005 Unlike traditional whistleblower laws, safe harbor provides "before-the-fact" protection. It is as much a conflict resolution law as it is a whistleblower law.	<ol style="list-style-type: none"> 1. Nurse believes she/he is being requested to engage in conduct that would violate nurse's duty to patient as defined by BON standards of practice and unprofessional conduct rules 2. Nurse advised another nurse about rights under safe harbor nursing peer review 	Yes BON also cannot take action against nurse's license	Yes	Yes. But not if retaliating entity is a government entity ⁶

NOTES: ¹NPR Law denotes Nursing Peer Review Law, Occupations Code, Chap 303;

²NPA denotes Nursing Practice Act, Occupations Code, Chap 301;

³H&S Code denotes Texas Health & Safety Code;

⁴DSHS Rule denotes Tx Dept of State Health Services Hospital Licensing Rule

⁵ Govt Code denotes Texas Government Code

⁶ A government entity cannot be sued unless a law explicitly waives sovereign immunity, i.e., clearly states that the state is waiving the right of the government entity not to be sued.