

EMPLOYER'S REPORT TO BON REPORT FORM

(Please read the instructions on back before completing this form.)

1. **Nurse Being Reported** (Please provide the following information about the nurse. If unknown, state "unknown".)

Name: _____ Lic. # _____

Employer: _____

Home Address: _____

2. **Incident/Conduct Being Reported** (Describe briefly. Do not use patient's name. Use additional sheet if necessary.)

Date: _____ Time: _____ Facility/Place: _____ Unit: _____

Incident/Conduct: _____

3. **Minor Incident**

Would the nurse's continuing to practice nursing pose a risk to patients or others? Yes _____ No _____

If No, why is the nurse being reported?

(Employers have an option of not reporting minor incidents to BON provided certain procedures are followed. See BON Rule 217.16.)

4. **Chemical Dependency or Mental Illness**

Do you suspect the Nurse's behavior is related to chemical dependency or mental illness? (If so, you may report the nurse to TPAPN. See instructions.)

Dependency _____ Mental Illness _____ Neither _____

5. **Peer Review Committee Involvement** (As a part of reporting a nurse to the BON, employers of 10 or more nurses (subject to 5 RN qualifier) must report the incident to the nursing peer review committee for it to evaluate the role of external factors).

Was the incident reported to a Risk Management Committee to evaluate external factors?

Yes _____ Yes, but not completed _____ No _____

Committee Chair: _____

Phone: _____ Email: _____

6. **Witnesses** (Identity is optional. The BON can request names if needed.)

Were there witnesses to the incident/conduct or are there other persons who have information about the incident or nurse's conduct? Yes _____ No _____

7. **Entity Making Report** (Provide the following information about the entity making the report.)

Name: _____ Phone: _____

Address: _____

Does the entity employ or use the services of 10 or more nurses? Yes _____ No _____

Person Submitting Report: _____ Phone: _____

Title: _____

I swear that, to the best of my knowledge, the information provided is true.

Signature

Date

INSTRUCTIONS

1. Sec. 301.405 of the Nursing Practice Act requires any employer to make a signed written report to the Board of Nursing identifying any nurse whom it has terminated, suspended for more than 7 days or taken other substantive disciplinary action as defined by the BON (the BON has not defined further) because:
 - i) likely exposure of patient or other person to an unnecessary risk of harm
 - ii) unprofessional conduct
 - iii) failure to care adequately for a patient
 - iv) failure to conform to the minimum standards of acceptable professional nursing practice
 - v) impairment or likely impairment of the nurse's practice by chemical dependency

Agency nurses must also be reported if the facility takes “disciplinary” action substantially equivalent to termination or suspension greater than 7 days.

2. Minor Incidents. Conduct that is otherwise subject to reporting may not be reportable if it is a minor incident and employer procedures are in place to ensure that the incident does not go undocumented. BON Rule 217.16 further defines what constitutes a minor incident and what procedures must be followed for it not to be reportable to BON.
3. An employer’s duty to report is not abrogated because of knowledge that someone else is reporting, or has reported, the incident to the BON.
4. If an employer suspects the nurse's behavior results from chemical dependency or mental illness, it may report the nurse to the Texas Peer Assistance Program for Nurses in lieu of reporting her or him to the BON if no practice violation is involved.

Texas Peer Assistance Program for Nurses
7600 Burnet Road, Suite 440, Austin, Texas 78757-1292
(800) 288-5528

5. The Nursing Practice Act requires that the report to the BON be in writing and signed.

How to File a Complaint Regarding Nursing Practice

The BON enforces the Nursing Practice Act and BON Rules and Regulations by setting minimum standards for nursing practice and nursing education, conducting investigations of complaints against nurses and adjudicating complaints. Complaints are received about practice or behavior which could be a violation of the Nursing Practice Act (NPA), and may include, but not limited to, the following:

- Behaviors which likely expose a patient or other person unnecessarily to the risk of harm;
- Unprofessional conduct by the nurse, as defined by 22 Tex. Admin. Code §217.12;
- Failure to adequately care for a patient;
- Failure to conform to the minimum standards of acceptable nursing practice, as defined by 22 Tex. Admin. Code §217.11; and/or
- Impairment or likely impairment of the nurse's practice by chemical dependency, alcohol or mental illness.

However, the Board does not normally address complaints about rudeness of a nurse to co-workers, violations of hospital policies, and general employer-employee issues.

- How do I file a complaint against a nurse?
 - Employer's complaint form; or
 - Individual's complaint form.
- Does the Texas Board of Nursing accept verbal complaints telephonically?
- What information is needed to file a complaint?
- If I make a complaint, will my identity and/or the identity of the patient be kept confidential?
- What if I suspect chemical impairment or mental illness is an issue with the nurse?
- How are complaints investigated?
- How long does it take to investigate a complaint and will I be notified of the outcome?
- How are nurses disciplined by the Board?
- If I am a licensed nurse and see another nurse do something wrong, must I report it to the Board?
- How do I get more information?

How do I file a complaint against a nurse?

Complaints may be filed at any time against a nurse by completing a written complaint form, available online for Individuals and Employers. In addition, you may request a complaint form be sent to you by calling the Texas Board of Nursing at (512) 305-6838 or the Health Professions Council Complaint Line at 1-800-821-3205, or you may simply write out your complaint on plain paper.

Your complaint can be faxed to (512) 305-6870 or you can mail to the following address:
Texas Board of Nursing, Enforcement, Suite 3-460, 333 Guadalupe St, Austin, Texas 78701

Does the Texas Board of Nursing accept verbal complaints telephonically?

Pursuant to §301.457, Tx Occ. Code, complaints must be in writing and signed by the complainant.

What information is needed to file a complaint?

Please provide the identity of the nurse involved, including the correct spelling of the name, and the nursing license number or social security number, if known, to assist us in the event the name is common, as well as a detailed summary of each alleged violation of the NPA, including dates of each alleged incident and the medical record number of the patient involved. Supplying the medical record number is not a violation of confidentiality. If the incident involves a medication, include the name of the medication.

Be as specific as possible in describing the events, and include a list of any witnesses with first-hand observations and knowledge of the incident(s).

If I make a complaint, will my identity and/or the identity of the patient be kept confidential?

All complaint information submitted to the Texas Board of Nursing (BON or Board) is kept confidential throughout the entire process of the investigation. Even if the nurse is disciplined publicly, he/she never learns the source of the complaint from the BON, unless the complainant is required to testify. In addition, every effort is made to protect the identity of patients during the entire process of the investigation, and records have all identifying information changed to allow anonymity.

What if I suspect chemical impairment or mental illness is an issue with the nurse?

These matters may be immediately reported to the Texas Peer Assistance Program for Nurses (TPAPN), in lieu of reporting to the Board, by calling 1-800-288-5528, or by downloading a TPAPN referral form and either mailing it to TPAPN, PO Box 9877, Austin, Texas 78766-0877 or faxing it to (512)467-2620.

How are complaints investigated?

The BON provides "due process" to the nurse by notifying him/her of the investigation and the allegations, unless doing so would jeopardize the Board's investigation. The nurse is afforded the opportunity to respond to the allegations made against him/her and to show compliance with the NPA for retention of the license.

An investigator is assigned and obtains necessary evidence and interviews witnesses. This process is usually conducted through the mail and over the phone, but investigators may make on site visits if needed.

Once all necessary evidence has been obtained, it is reviewed to determine whether or not there has been a violation of the Nursing Practice Act.

How long does it take to investigate a complaint and will I be notified of the outcome?

An investigation typically takes five (5) to twelve (12) months to complete, depending on the circumstances. The complainant and the nurse being investigated are notified every three (3) months of the status of the investigation. Reasons for delays in completing the case are numerous and factors creating these delays are often not within the control of the investigator, the Board, or the nurse under investigation. Each complaint will be resolved as soon as

possible. Unless instructed otherwise, all complainants are notified of the final outcome of each investigation.

In FY 09, the Board resolved approximately 37% of RN and LVN cases within 6 months, 27% of RN and LVN cases within 6-12 months, and 36% of RN and LVN cases in over 1 year. The average resolution time for jurisdictional complaints was 188 calendar days for RN cases and 137 calendar days for LVN cases.

How are nurses disciplined by the Board?

Cases in which the evidence indicates that a sanction against the nurse is needed in order to protect the public will result in an Order of the Board and will include both the sanction and any requirements placed on the nurse for retention of their license. Possible sanctions include remedial education, fine, warning, reprimand, suspension, probation and revocation. Board Orders are public information and are permanent designations in the licensure records of the nurse.

If I am a licensed nurse and see another nurse do something wrong, must I report it to the Board?

Yes, the Nursing Practice Act for the State of Texas, Section 301.402 (b), states that a nurse has the responsibility to submit a written, signed report to the Board when he/she has cause to suspect wrong-doing by another nurse. Failing to do so is a violation of the Act.

How do I get more information?

Additional questions can be answered by email to webmaster@bon.state.tx.us or by calling the Enforcement Department at (512)305-6838.

TEXAS BOARD OF NURSING Report/Complaint Form

The Nursing Practice Act, Texas Occupations Code, Sections 301.401 - 301.419, requires nurses, nursing peer review committees, employers of nurses, as well as other entities, to report to the Texas Board of Nursing (BON) any nurse who engages in conduct subject to reporting, pursuant to Section 301.401(1) that:

- (A) violates this chapter or a board rule and contributed to the death or serious injury of a patient;
- (B) causes a person to suspect that the nurse's practice is impaired by chemical dependency or drug or alcohol abuse;
- (C) constitutes abuse, exploitation, fraud, or a violation of professional boundaries; or
- (D) indicates that the nurse lacks knowledge, skill, judgment, or conscientiousness to such an extent that the nurse's continued practice of nursing could reasonably be expected to pose a risk of harm to a patient or another person, regardless of whether the conduct consists of a single incident or a pattern of behavior.

Board rules in 22 Texas Administrative Code, § 217.11 Standards of Nursing Practice, § 217.12 Unprofessional Conduct, and § 217.16 Minor Incidents may also be relevant to review in considering whether or not a nurse has engaged in reportable conduct. The Board does not normally address issues such as rudeness of a nurse to co-workers, and general employer-employee issues.

Report/Complaint forms are available through the Board of Nursing (BON) website at <http://www.bon.state.tx.us> under the Disciplinary Actions link; however, it is not necessary to have a form in order to report suspected violations of statutes or board rules by a nurse. In situations involving suspected chemical impairment, mental illness, or diminished mental capacity in conjunction with suspected or known nursing practice violations, the NPA section 301.410(b) requires that the nurse be immediately reported to the BON. Impairment that involves criminal conduct must also be reported to the board. A nurse who does not fit into the aforementioned categories and who wishes to seek assistance voluntarily may contact the Texas Peer Assistance Program for Nurses (TPAPN) at 512/467-7027 or 1-800-288-5528, in lieu of reporting him/herself to the Board.

The Board has developed the following guidelines for use when reporting violations:

- 1) Establish the identity of the nurse involved and the unlawful act or practice involved.
- 2) Report suspected problems immediately to the supervisor, or the person in authority (if applicable).
- 3) Limit the number of people who are investigating the problem. Do not discuss suspicions with others.
- 4) Verify the problem through official records, when possible. Copies of same should be secured. Be careful to maintain patient confidentiality, using medical record numbers, and de-identifying patient names on personal health records.
- 5) Document information in writing. Sharply distinguish between first-hand observations based upon personal knowledge and hearsay statements obtained from others. When possible, signed statements should be obtained from individuals having direct, first-hand knowledge of the activity.

INSTRUCTIONS FOR COMPLETING THE ATTACHED REPORT/COMPLAINT FORM

The written report/complaint should include the following:

- a. The nurse's license number or social security number. If available, the following are also helpful: date of birth, home address, and phone.
- b. Correct spelling of the nurse's full name.
- c. A detailed summary of each alleged violation of the NPA. Include the date of each alleged incident and if applicable, medical record number of the patient involved.
- d. Whether or not any witnesses were present. If possible, the full names and contact information (including e-mail addresses) for witnesses is helpful.

ATTACHMENT Q

- e. If the nurse is being reported due to a decision by a Nursing Peer Review Committee, a copy of the Peer Review Report (if you are an employer of 10 or more nurses), including a detailed summary of the peer review committee's findings and recommendations. **NOTE:** If the employer terminates, suspends for 7 or more days, makes an agency nurse a do-not-return, or takes other substantive disciplinary action against a nurse for practice-related errors, a report to the Board of Nursing is required, and the peer review committee must meet solely to review external factors that may have contributed to the nurse's error to determine whether a report to the practice setting's Patient Safety Committee is required. Because the nurse has already been reported to the board, rule 217.19(f) provides that due process requirements do **NOT** apply to the nurse in this situation.
- f. Reporting suspected impairment of a nurse by reason of a substance use disorder, certain mental health diagnoses, or diminished mental capacity.

In accordance with NPA section 301.410, the following provisions apply to reporting a nurse whose practice may be impaired:

- (1) A person who is required to report a nurse because the nurse is impaired or suspected of being impaired by chemical dependency or other substance use disorder, certain mental health diagnoses, or diminished mental capacity may report to the Texas Peer Assistance Program for Nurses (TPAPN){Chapter 467, Health and Safety Code} instead of reporting to the Board. It is not appropriate to peer review a nurse whose practice is suspected of being impaired.
- (2) A person who is required to report a nurse because the nurse is impaired or suspected of being impaired as in #1 above **must** report to the board if the person believes that the nurse also committed a practice violation. It may be helpful to review the board's Disciplinary Sanction Policy on substance use disorders <http://www.bon.state.tx.us/disciplinaryaction/pdfs/chemical.pdf> under the Disciplinary Actions link from the BON home page.

Pursuant to Section 301.417(a) of the Nursing Practice Act, the Texas Board of Nursing does not disclose the identity of a complainant.

Submit completed complaint form to:

Texas Board of Nursing
Enforcement Division
333 Guadalupe #3-460
Austin, Texas 78701-3944
(512) 305-6838
Fax: (512) 305-6870

Complaints can also be made by contacting the Health Professions Council Complaint line at 1-800-821-3205.

The caller will be provided with a complaint form to complete and return to the BON office.

EMPLOYER'S REPORT/COMPLAINT FORM
REPORT OF VIOLATIONS BY A NURSE
TO THE TEXAS BOARD OF NURSING
with regard to the
NURSING PRACTICE ACT, OTHER STATUTES, and BOARD RULES

PLEASE PRINT LEGIBLY

1. Information about the Nurse being reported:

FULL NAME _____ LICENSE NUMBER _____

SOCIAL SECURITY # _____ DATE OF BIRTH _____

PHONE _____

EMPLOYER _____

EMPLOYER'S ADDRESS _____

EMPLOYER'S TELEPHONE # _____

2. Incident/Conduct Being Reported (If more space is needed attach additional sheets.)

DATE(S) OF INCIDENT _____ TIME _____ FACILITY/UNIT _____

PATIENT MEDICAL RECORD NUMBER _____

INCIDENT/CONDUCT _____

SUPERVISOR'S OR EMPLOYER'S PERCEPTION OF FACTORS THAT CONTRIBUTED TO THE INCIDENT/CONDUCT
(most serious incident if more than one, or first if all were equally serious). Check all that apply:

- Nurse's language barrier
- Nurse's language high work volume / stress
- Nurse's drug / alcohol impairment
- Nurse's inexperience (with clinical event, procedure, treatment or patient condition)
- No rest breaks / meal breaks
- Nurse's overwhelming assignment(s)
- Nurse's mental health issues
- Nurse's personal pain management
- None (If selected, don't select any other factors.)
- Other - please specify: _____
- Nurse's cognitive impairment
- Nurse's fatigue / lack of sleep
- Nurse's functional ability deficit
- Nurse's lack of orientation / training
- Nurse's lack of team support
- Nurse's conflict with team members
- Lack of adequate staff
- Unknown (If selected, don't select any other factors.)

WITNESSES(S) (Describe briefly what each witness knows about the incident/conduct. If more space is needed attach additional sheets.)

Name _____ Title _____

Phone/E-mail: _____

WITNESSES(S)

Name _____ Title _____

Phone/E-mail: _____

3. COMPLAINANT INFORMATION

NAME _____ TELEPHONE # _____

ADDRESS _____

Phone/E-mail _____

Signature

Date