

# Texas Laws Governing Hospital Nurse Staffing



**THA**  
Texas Hospital Association



**TEXAS NURSES  
ASSOCIATION**

The importance of nursing to patient care in Texas hospitals cannot be overstated. Texas hospitals and their almost 136,000 nurses are committed to ensuring that all patient needs are met and the highest outcomes achieved.

Texas law requires the boards of trustees of hospitals to enact a written nurse staffing plan developed with input from direct care nurses that is updated at least annually. This plan ensures compliance with state law and regulations and provides the flexibility needed for each hospital to respond to patient and community need.

This document explains the requirements included in hospitals' nurse staffing plans.

In general, Texas hospitals must ensure that:

- Nurses have current licensure.
- There are enough RNs and LVNs to care for patients.
- There is supervisory and staff personnel for each department or nursing unit to provide the immediate availability of an RN to provide care for any patient.
- An RN is on duty in each building of a licensed hospital that contains at least one nursing unit where patients are present.
- There is a nursing plan of care for each patient which addresses the patient's needs.
- They have a standing nurse staffing committee comprised of direct care nurses selected by their peers.

## Nurse Staffing Plan

The nurse staffing plan and related policies must:

- Consider the recommendations of the hospital's nurse staffing committee.
- Be based on the needs of each patient care unit, shifting based on the needs of patients.
- Take into account the skills and ability of the nurses and patient safety.
- Encourage input from the nursing staff with protection from retaliation.

The nurse staffing plan also must:

- Be retained for at least two years.
- Be a component in setting the nurse staffing budget,

rather than having the budget inform the staffing plan.

- Guide the hospital in assigning nurses hospital-wide.
- Set minimum staffing levels for patient care units, which are determined by the nursing assessment in accordance with evidence-based safe nursing standards.
- Take into account: patient characteristics and the number of patients, including discharges, admissions, and transfers; the intensity and variability of patient care in the unit; the scope of services; the context and setting of the care and the availability of technology; and the characteristics of the nursing staff and other support staff.
- Include built-in flexibility with a method for adjusting the plan shift-to-shift for each patient care unit.
- Include a contingency plan for when patient care needs exceed staff resources.
- Describe how on-call time will be used.
- Reflect current standards by accrediting bodies, professional organizations and government entities.
- Include a mechanism for evaluating the effectiveness of the staffing plan based on patient needs, nursing sensitive quality indicators, nurse satisfaction measures collected by the hospital and evidence-based nurse staffing standards. At least one of these outcomes must be correlated to the adequacy of staffing:
  - Nurse-sensitive patient outcomes selected by the nurse staffing committee, such as, patient falls, adverse drug events or length of stay.
  - Operational outcomes, such as work-related injury, violence towards nurses, overtime rates or turnover.
  - Substantiated patient complaints related to staffing levels.
- Incorporate a process to solicit concerns about the nurse staffing plan that:
  - Prohibits retaliation for reporting concerns.
  - Requires nurses to timely report concerns through appropriate channels at the hospital.
  - Orients nurses on how and to whom to report concerns.
  - Encourages nurses to provide input about staffing concerns to the nurse staffing committee and provides for review, assessment, and response by the nurse staffing committee.



- Includes a process for providing feedback during the committee meeting on how concerns are addressed.
- Uses the nurse safe harbor peer review process under section 303.005 of the Occupations Code.
- Include policies and procedures requiring orientation (including the orientation of nonemployee nurses), documented competency in accordance with hospital policy and nursing assignments congruent with competency.

## Nurse Staffing Committee



Any reports, records, or information compiled by the nurse staffing committee are confidential, not subject to disclosure under the Public Information Act, and subject to the same confidentiality and disclosure requirements as a record originating from a medical peer review committee.

The nurse staffing committee must meet quarterly and include:

- At least 60 percent RNs who spend at least half of their

time providing direct patient care who are selected by their peers.

- At least one RN from either infection control, quality assessment and performance improvement or risk management.
- Representatives of the types of nursing services at the hospital.
- The CNO. The CNO is a voting member of the committee.

Committee members must be compensated for their time when attending committee meetings and relieved of patient care duties.

The nurse staffing committee must:

- Develop and recommend the nurse staffing plan.
- Solicit, evaluate and respond to staffing concerns expressed to the committee.
- Identify the nurse-sensitive outcome measures the committee will use to evaluate the effectiveness of the official nurse services staffing plan.



Texas law requires the boards of trustees of hospitals to enact a written nurse staffing plan developed with input from direct care nurses that is updated at least annually.

- Evaluate and document in the minutes, at least twice per year, the effectiveness of the official nurse services staffing plan, variations between the plan and the actual staffing and whether the plan meets patient needs, nursing sensitive quality indicators, nurse satisfaction measures collected by the hospital and evidence-based nurse staffing standards, as set out by the nurse staffing plan.
- Submit, at least twice per year, a report to the board on nurse staffing and patient care outcomes, including the committee’s evaluation of the effectiveness of the official nurse staffing plan and aggregate variations between the staffing plan and actual staffing.

## Hospital Obligations

Hospitals must:



- Annually report to the Texas Department of State Health Services whether the hospital has a nurse staffing policy, whether the committee has the required membership composition, whether the nurse staffing committee has evaluated the hospital’s nurse staffing plan and has reported the results of the evaluation to the hospital’s governing body and what nurse-sensitive outcome measures the committee adopted to evaluate the nurse staffing plan.
- Make official nurse staffing plan levels and current staffing levels available to nurses on each patient care unit at the beginning of each shift.
- Report variations between planned staffing levels and actual staffing levels to the nurse staffing committee (which are confidential).

- Adopt policies on mandatory overtime where:
  - A hospital may not require a nurse to work mandatory overtime and a nurse may refuse to work mandatory overtime, **except** in the case of a disaster or declaration of emergency in the county or contiguous county, an emergency or unforeseen event that increases the need for health care personnel to provide safe care in a hospital or the nurse is actively engaged in an ongoing medical or surgical procedure and the continued presence of the nurse is necessary for the health and safety of the patient.
  - Scheduling a nurse for a procedure that may last beyond the nurse’s shift does not qualify as mandatory overtime. For example, two nurses in the cardiovascular lab are scheduled to work from 7:00 a.m. until 4:00 p.m., and a procedure that began at 3:30 p.m. is not completed at 4:00 p.m. The two nurses assisting with the procedure are told they must stay until the procedure is finished and the patient is transferred to recovery. This scenario **is not** considered mandatory overtime. However, illegal mandatory overtime would occur if two cases were added to the schedule after 4:00 p.m., and the nurses were directed to stay until those cases were completed.
  - If a hospital determines that an exception to the prohibition on mandatory overtime exists, the hospital must, to the extent possible, make a good faith effort to meet the staffing need through voluntary overtime, and document that effort.
  - A hospital may not use on-call time as a substitute for mandatory overtime.