HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE B. LICENSING OF HEALTH FACILITIES

CHAPTER 258. MANDATORY OVERTIME FOR NURSES PROHIBITED

Sec. 258.001.  DEFINITIONS. In this chapter:

(1)  "Commission" means the Health and Human Services Commission.

(1-a)  "Hospital" means:

(A)  a general hospital or special hospital, as those terms are defined by Section 241.003, including a hospital maintained or operated by this state; or

(B)  a mental hospital licensed under Chapter 577.

(2)  "Nurse" means a registered nurse or vocational nurse licensed under Chapter 301, Occupations Code.

(3)  "On-call time" means time spent by a nurse who is not working but who is compensated for availability.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](http://capitol.texas.gov/tlodocs/81R/billtext/html/SB00476F.HTM)), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 398 (H.B. [2187](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB02187F.HTM)), Sec. 4, eff. September 1, 2025.

Sec. 258.002.  MANDATORY OVERTIME. For purposes of this chapter, "mandatory overtime" means a requirement that a nurse work hours or days that are in addition to the hours or days scheduled, regardless of the length of a scheduled shift or the number of scheduled shifts each week.  In determining whether work is mandatory overtime, prescheduled on-call time or time immediately before or after a scheduled shift necessary to document or communicate patient status to ensure patient safety is not included.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](http://capitol.texas.gov/tlodocs/81R/billtext/html/SB00476F.HTM)), Sec. 1, eff. September 1, 2009.

Sec. 258.003.  PROHIBITION OF MANDATORY OVERTIME. (a) A hospital may not require a nurse to work mandatory overtime, and a nurse may refuse to work mandatory overtime.

(b)  This section does not prohibit a nurse from volunteering to work overtime.

(c)  A hospital may not use on-call time as a substitute for mandatory overtime.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](http://capitol.texas.gov/tlodocs/81R/billtext/html/SB00476F.HTM)), Sec. 1, eff. September 1, 2009.

Sec. 258.004.  EXCEPTIONS. (a) Section 258.003 does not apply if:

(1)  a health care disaster, such as a natural or other type of disaster that increases the need for health care personnel, unexpectedly affects the county in which the nurse is employed or affects a contiguous county;

(2)  a federal, state, or county declaration of emergency is in effect in the county in which the nurse is employed or is in effect in a contiguous county;

(3)  there is an emergency or unforeseen event of a kind that:

(A)  does not regularly occur;

(B)  increases the need for health care personnel at the hospital to provide safe patient care; and

(C)  could not prudently be anticipated by the hospital; or

(4)  the nurse is actively engaged in an ongoing medical or surgical procedure and the continued presence of the nurse through the completion of the procedure is necessary to ensure the health and safety of the patient.

(b)  If a hospital determines that an exception exists under Subsection (a)(3), the hospital shall, to the extent possible, make a good faith effort to meet the staffing need through voluntary overtime, including calling per diems and agency nurses, assigning floats, or requesting an additional day of work from off-duty employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](http://capitol.texas.gov/tlodocs/81R/billtext/html/SB00476F.HTM)), Sec. 1, eff. September 1, 2009.

Sec. 258.005.  RETALIATION PROHIBITED.  A hospital may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to work mandatory overtime or reports violations of this chapter to hospital management or the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](http://capitol.texas.gov/tlodocs/81R/billtext/html/SB00476F.HTM)), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 398 (H.B. [2187](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB02187F.HTM)), Sec. 5, eff. September 1, 2025.

Sec. 258.006.  ENFORCEMENT; COMPLAINT RESOLUTION. (a)  The commission shall enforce this chapter in accordance with:

(1)  Subchapter C, Chapter 241, against a hospital licensed under that chapter as if the hospital violated that chapter;

(2)  Chapter 577 and rules adopted under Sections 577.010 and 577.013, against a hospital licensed under Chapter 577 as if the hospital violated that chapter; and

(3)  rules adopted under Section 241.026(a).

(b)  The commission shall establish a process to provide prompt review and timely resolution of each complaint submitted under this chapter.  The commission must:

(1)  develop a procedure, or designate an existing procedure, through which a party may submit a written or verbal complaint;

(2)  establish a time to review and respond to the complaint; and

(3)  provide the complainant written notice of the commission's decision regarding the complaint, including:

(A)  the contact information of the commission employee responsible for the complaint;

(B)  commission actions in reviewing, evaluating, or investigating the complaint;

(C)  the results of the commission's review of the complaint;

(D)  for each reviewed complaint for which an investigation is not conducted, an explanation of the reason the commission resolved the complaint without investigation; and

(E)  the date the complaint is resolved.

(c)  All information and materials in the possession of or obtained or compiled by the commission in connection with a complaint and investigation are confidential and not subject to disclosure in accordance with:

(1)  Section 241.051(d) for a complaint submitted against a hospital licensed under Chapter 241; or

(2)  Section 577.013(e) for a complaint submitted against a hospital licensed under Chapter 577.

Added by Acts 2025, 89th Leg., R.S., Ch. 398 (H.B. [2187](http://capitol.texas.gov/tlodocs/89R/billtext/html/HB02187F.HTM)), Sec. 6, eff. September 1, 2025.