



Ohio Administrative Code

Rule 3701-64-05 Findings of director; petition to remove a finding of neglect from the nurse aide registry.

Effective: [April 29, 2022](#)

(A) The director shall not make a finding against the accused if neglect was caused by factors beyond the control of the accused. Factors beyond the control of the accused may include, but are not limited to, orders from his or her supervisor or failure of the long-term care facility or residential care facility to provide adequate staffing or supplies.

(B) If the director finds that an accused, who is used by a long-term care facility or residential care facility, has abused, neglected or exploited a resident or misappropriated property of a resident, the director shall notify all of the following by ordinary mail:

(1) The accused;

(2) The long-term care facility where the incident occurred and any other long-term care facility known by the director to be using the accused at the time of the director's finding;

(3) The attorney general, county prosecutor, or other appropriate law enforcement official;

(4) The nurse aide registry established under section 3721.32 of the Revised Code, including a detailed statement of the director's findings;

(5) Any appropriate professional licensing authority established under Title 47 of the Revised Code;
and

(6) Any other entity that may benefit from the notice.

(C) A nurse aide or other individual about whom a statement is required by paragraph (B) of this rule to be included in the nurse aide registry may provide the director with a statement which disputes the director's findings and which explains the circumstances of the allegation. The director shall include this statement in the nurse aide registry with the director's findings.



(D) If the director finds that alleged abuse, neglect, or exploitation of a resident or misappropriation of property of a resident cannot be substantiated, the director shall notify the accused and expunge all files and records of the investigation and the hearing by doing all of the following:

(1) Removing and destroying the files and records, originals and copies, and deleting all index references;

(2) Reporting to the accused the nature and extent of any information about the accused which has been transmitted to any other person or government entity by the director; and

(3) Otherwise ensuring that any examination of the director's files and records in question show no record whatever with respect to the accused.

(E) The failure of the director to comply with any of the time limits specified in rules 3701-64-02 to 3701-64-05 of the Administrative Code shall not effect the validity of any finding made by the director under this rule.

(F) In accordance with division (D)(2) of section 3721.23 of the Revised Code and in a form and manner prescribed by the director, not earlier than one year after the date of a finding of neglect, an individual found to have neglected a resident may petition the director to rescind the finding and remove the statement and any accompanying information from the nurse aide registry. The director shall consider the petition.

(1) If, in the judgment of the director, the neglect was a singular occurrence and the employment and personal history of the individual does not evidence abuse or any other incident of neglect of residents, the director shall notify the individual and remove the statement and any accompanying information from the nurse aide registry;

(2) The director shall expunge all files and records of the investigation and the hearing, except the petition for rescission of the finding of neglect and the director's notice that the rescission has been approved; and



(3) A petition for rescission of a finding of neglect and the director's notice that the rescission has been approved are not public records for the purpose of section 149.43 of the Revised Code.

(G) When files and records have been expunged under paragraph (D) or (F) of this rule, all rights and privileges are restored, and the accused, the director, and any other person or government entity may properly reply to an inquiry that no such record exists as to the matter expunged.