

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 3701-64-05

**Rule Type:** Amendment

**Rule Title/Tagline:** Findings of director; petition to remove a finding of neglect from the nurse aide registry.

**Agency Name:** Department of Health

**Division:**

**Address:** 246 North High St Columbus OH 43215

**Contact:** Alicyn Carrel

**Email:** alicyn.carrel@odh.ohio.gov      **Phone:** 614-752-8451

#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?** 4/15/2021
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 49 - 132 - 139th GA Smith
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 3721.26
5. **What statute(s) does the rule implement or amplify?** 3721.23
6. **What are the reasons for proposing the rule?**

This rule is being filed to incorporate provision of HB 49 of the 139th General Assembly.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the procedures for the Ohio Department of Health to follow when making a finding of abuse or neglect. The rules also set forth the procedures

for an individual who has a single finding of neglect must follow to petition the Ohio Department of Health for removal from the nurse aide registry. The term "exploitation" is being added to this rule.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**  
Ohio Revised Code  
Ohio Administrative Code
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

## **III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? Yes**

**16. Does this rule have an adverse impact on business? Yes**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

While this rule does not require a license, all long-term care facilities and residential care facilities required to report allegations of abuse, neglect or misappropriation are required to be licensed in accordance with Chapter 3721. of the Revised Code.

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

This rule allows the Director of Health to make a finding (civil penalty) that an individual committed an act of abuse, neglect or misappropriation against a resident of a long-term care facility or residential care facility.

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**

An individual who wishes to have a finding of neglect removed must submit information to the Ohio Department of Health.

## Rule Summary/Fiscal Analysis Form (On-Line Questions)

<b>Rule No.</b>	3701-64-05
-----------------	------------

- 1) State reason(s) for proposing, (i.e., why you are filing,) this rule: [This can be one general statement for all the rules in a package, if applicable]

**This rule is being filed to incorporate provision of HB 49 of the 139<sup>th</sup> General Assembly.**

- 2) Summarize the content of the rule. If the rule is an AMENDMENT also summarize the changes. [In summarizing the content, please don't simply re-state the rule title.]

**This rule sets forth the procedures for ODH to follow when making a finding of abuse or neglect. The rule also sets forth the procedures for an individual who has a single finding of neglect must follow to petition ODH for removal from the nurse aide registry.**

**The term "exploitation" is being added to this rule.**

- 3) Are you proposing this rule as a result of recent legislation?

No  Yes

(Double Click Box and Select 'Checked')

Bill Number:	<b>49</b>
General Assembly Number:	<b>139</b>
Bill Sponsor:	<b>Smith</b>

*[Please Note: all bills – even budget bills – have someone officially designated as a sponsor. If you don't know the sponsor, please ask Legislative Affairs]*

- 4)

Statute(s) authorizing agency to adopt the rule:	<b>3721.26</b>
Statue(s) the rule, as filed, amplifies or implements:	<b>3721.23</b>

- 5) Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? (Note: If you indicate Yes,

Yes  No

# Rule Summary/Fiscal Analysis Form (On-Line Questions)

Part B form must accompany this RS/FA. )

(Double Click Box and Select 'Checked')

- 6) Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R.C. 121.39: (Note: If you indicate Yes, an Environmental Impact form must accompany this RS/FA.)

Yes  No

(Double Click Box and Select 'Checked')

**Prior Effective Dates:** *[Please include all past dates, earliest to the latest]*

1/10/1992, 6/11/01, 8/1/06, 6/10/11, 4/18/2016

- 7) Does this rule have a replacement line?

Yes  No

(Double Click Box and Select 'Checked')

If yes, please list the rule number(s) this rule is replacing all or part of:

- 8) If adopted, is this rule likely to affect individuals, small businesses or small organizations (see R.C. 121.24)?

Yes  No

(Double Click Box and Select 'Checked')

- 9) Pursuant to R.C. 173.01(C), if adopted will this rule primarily affect persons sixty years of age or older?

Yes  No

(Double Click Box and Select 'Checked')

- 10) Does this rule contain appendices?

Yes  No

(Double Click Box / Select 'Checked')

If Yes, answer the following:

1) How many appendices? \_\_\_\_

2) What actions need to be taken for each appendix?

[i.e., Amend? Rescind? Rescind/File New? File with no change?]

- 11) Estimate the total dollar amount by which this proposed rules would impact the agency during the current biennium.

Enter dollar amount: \_\_\_\_ \$0.00 \_\_\_\_ [PLEASE NOTE: THIS MUST BE A DOLLAR AMOUNT; DO NOT WRITE A SENTENCE]

## Rule Summary/Fiscal Analysis Form (On-Line Questions)

12) This rule will (Select One Option by Double Clicking BOX and Select 'Checked' or 'Not Checked'):

- Increase Expenditures
- Decrease Expenditures
- Increase Revenues
- Decrease Revenues
- Have No Impact

13) Explain the net impact of the proposed changes to the budget of your agency/department. (If there is no cost or no change in cost from current rules just put "Not Applicable.")

Not Applicable.

14) Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule.

Not applicable.

15) Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g., industry, CFR, internal/Agency.

Not Applicable.

16) Does this rule incorporate a text or other material by reference? If so what? (i.e., O.A.C., R.C.) Is the reference exempted from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is generally available to persons who reasonably can be expected to be affected by the rule? If not, the material must be provided as an appendix (consult with Legal if you have questions about incorporation of referenced texts).

Ohio Revised Code  
Ohio Administrative Code

**-exempted-**

## Rule Summary/Fiscal Analysis Form (On-Line Questions)

- 17) Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82?  Yes  No  
(Double Click Box and Select 'Checked')

18) Specific to this rule, answer the following:

- A) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?  Yes  No  
(Double Click Box and Select 'Checked')

**If the answer is "Yes", provide an explanation.**  
If the answer is "No" an explanation, is optional.

While this rule does not require a license, all long-term care facilities and residential care facilities required to report allegations of abuse, neglect or misappropriation are required to be licensed in accordance with Chapter 3721. of the Revised Code.

- B) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action for failure to comply with its terms?  Yes  No  
(Double Click Box and Select 'Checked')

**If the answer is "Yes", provide an explanation.**  
If the answer is "No" an explanation is optional.

This rule allows the Director of Health to make a finding (civil penalty) that an individual committed an act of abuse, neglect or misappropriation against a resident of a long-term care facility or residential care facility.

- C) Does this rule require specific expenditures or the report of information as a condition of compliance?  Yes  No  
(Double Click Box and Select 'Checked')

**If the answer is "Yes", provide an explanation.**  
If the answer is "No" an explanation is optional.

An individual who wished to have a finding of neglect removed must submit information to ODH.