

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 **Phone:** 614-752-8451

Email: alicyn.carrel@odh.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 1/31/2022
2. **Is this rule the result of recent legislation?** No
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?**

Five-year rule review.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

3701-64-05 – 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.

Requirements related to the Director of Health have been removed from paragraph (A) and technical corrections have been made throughout.

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. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Ohio Revised Code and Ohio Administrative Code are exempt.

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. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

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**

15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

III. Common Sense Initiative (CSI) Questions

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

17. 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

The Chapter 3701-64 do not require a nursing home or residential care facility to be licensed; however, other provision of both the Revised Code and Administrative Code do require licensure.

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

Sets forth procedures for making a finding against an accused. An individual with a finding will be listed on the Nurse Aide Registry with that finding and cannot work in a long term care facility, except that after 1 year, they may petition the Director to remove a finding of neglect.

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

Collectively, the Chapter 3701-64 rule require notification to the Department of allegation of abuse, neglect or misappropriation by an individual associated with the facility and for the reporting facility to maintain records related to its investigation, including audio/visual records.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding? 0

B. How many existing regulatory restrictions do you propose removing? 2

(A) The director shall make a finding concerning an allegation of abuse, neglect, exploitation, or misappropriation on which a hearing was held under rule 3701-64-04 of the Administrative Code after the expiration of the period specified by paragraph (J) of that rule for filing objections and, if applicable, the expiration of the period for filing responses. The director's findings shall be based upon the hearing officer's recommendation, any written objections and responses, and the hearing record. If the accused failed to request a hearing within the time allowed by paragraph (A) of rule 3701-64-03 of the Administrative Code, the director may make a finding after the expiration of the thirty-day period.

Paragraph (A) of rule 3701-64-05. Added restriction to rule 3701-64-02.

In accordance with section 3721.32 of the Revised Code, the director shall include a statement which details his findings in the nurse aide registry established under that section.

Part of paragraph (B)(6) of rule 3701-64-05. Added restriction to rule 3701-64-02