

PETITION FOR REMOVAL OF FINDING OF NEGLECT FROM THE MISSISSIPPI NURSE AIDE REGISTRY

Purpose:

The purpose of the Petition for Removal of a Finding of Neglect from the Mississippi Nurse Aide Registry is to give the Nurse Aide an opportunity to request that a single entry of Neglect be removed from the MS Nurse Aide Registry. The request can not be made until one year from the date the finding of neglect was added to the name of the nurse aide on the Nurse Aide Registry.

This process, including face-to-face meetings, panel interviews, or other procedures, should in no way be construed as a formal evidentiary hearing process.

This process is consistent with the mandated provisions in 42 USC §1395i 3 (g)(1) and (d)(i) and (ii) addressing the removal a finding of Neglect from the MS Nurse Aide Registry in limited circumstances.

Policy:

- An individual with a finding of neglect placed on the nurse aide registry listing after January 1, 1995 may petition the Mississippi State Department of Health (MSDH), Bureau of Health Facilities Licensure and Certification (HFLC), for removal of the finding of neglect from his/her name one (1) full year after the finding is placed on the MS Nurse Aide Registry.
- All petitions for removal of a finding of neglect must be submitted in the standard format provided by the MSDH/HFLC.
- All petitions must be complete in format before considered for review.
- The petition will be reviewed and the nurse aide will be notified in writing of a final decision within 45 days of a complete petition.
- The individual must provide the MSDH/HFLC with authorization for release of any information deemed appropriate in conducting the review of the petition.

The MSDH/HFLC will consider a petition from a nurse aide for removal of one finding of neglect upon determination that:

- a. The required time period has been met. A determination shall not be made prior to the expiration of the one (1) year period beginning on the date on which the finding of neglect was added to the name of the petitioner on the MS Nurse Aide Registry.
 - b. The employment and personal history of the nurse aide does not reflect a pattern of abusive behavior or neglect. For the purposes of this section, a pattern is defined as two (2) or more occurrences of abusive or neglectful behavior towards another individual that resulted in the potential for a negative outcome or an actual negative outcome to a resident.
 - c. The neglect involved in the original finding was a singular occurrence that resulted in a potential or actual negative resident outcome.
 - d. A background check, including a criminal history record check or report, revealed no history of mistreatment, including but not limited to instances of domestic abuse, the granting of a restraining order which was overturned, an adverse finding entered on any child abuse information index, or conviction of any crime including violence or the threat of violence.
- Following a denial of the initial petition to MSDH/HFLC for removal of a finding of neglect, the nurse aide may petition for a second consideration for removal twelve (12) months from the date of the **Notice of Denial** of the initial petition. The procedure stated within this policy must be followed with a second petition. The decision of the panel following the second petition is **FINAL** and cannot be appealed.
 - If a new finding of neglect is placed on the nurse aide's registry listing after the original finding of neglect has been removed, the new finding will remain on the registry with no opportunity to petition for removal.

Procedure:

1. The nurse aide must submit a written petition for removal of a finding of neglect from the MS Nurse Aide Registry (NAR) on the form provided by the MSDH/Bureau of (HFLC) to include the following:
 - a. The nurse aide requesting the review must submit a written statement to MSDH/Bureau of HFLC indicating the rationale for the removal of the finding.
 - b. Using the MSDH **Form # 678E** (Petition for Removal Of A Finding of Neglect from the MS Nurse Aide Registry), the nurse aide must

complete the form in its entirety, provide a list of any rehabilitation or education pertinent to the job duties of a nurse aide which have been completed since the finding of neglect, and provide work history for the past two (2) years or since the finding of neglect was placed on the MS Nurse Aide Registry, including the names of employers, addresses, employment job titles and duties, and reason for leaving employment. Reference letters that speak to the individual's character will also be accepted. **Only one letter from a family member will be considered; however a minimum of three (3) reference letters must be submitted.**

- c. A summary from each employer, as listed in subsection b, must be provided showing the nurse aide's job performance, including dates of employment, job title, job duties, reason for leaving employment, behavioral conduct, and performance evaluations. The nurse aide must petition the prior employers to provide the MSDH/HFLC with these summaries, to be provided on the employer's letterhead and signed and dated by the supervisor or employer.
 - d. The petitioner shall apply to challenge the Nurse Aide Competency and Evaluation Examination (with code set up with NACES that will alert the necessary entities that the petitioner is registering to take the exam for Removal of a Finding of Neglect from the Registry – not expiration of certification). The Examination will be at the cost of the petitioner. Upon successful completion of the evaluation examination, the petitioner must provide a copy of the test results. If completion is unsuccessful, no review will be afforded to this petitioner and the petition for consideration for removal of the finding of neglect from the nurse aide registry will be denied.
 - e. Within two (2) weeks prior to the date of the petition, the nurse aide must submit to a criminal history background check, conducted at the expense of the petitioner. If the background check was not completed within two (2) weeks prior to the date of the petition, the process must be completed again at the expense of the petitioner. The petitioner must name the MSDH/HFLC as the recipient of the background report.
 - f. Within forty-five (45) days of the receipt of the completed application, a panel will convene. The panel will be composed of three (3) individuals: HFLC Division Director, MS Nurse Aide Training Coordinator, and SQMT Certified Registered Nurse IV. A simple majority will be used for the final determination to remove or not remove the finding of neglect from the MS Nurse Aide Registry. The petitioner will be notified in writing by certified and regular mail of the panel's determination within thirty (30) days of panel review.
2. The panel will review the petition and all information contained in the MSDH/HFLC file regarding the original incident, with consideration given to the following factors:

- a. The degree of negligence;
 - b. The egregiousness of the actual negative resident outcome;
 - c. The forthrightness and cooperation of the individual;
 - d. Any rehabilitation or education completed by the nurse aide since the incident;
 - e. The employer statements and work history of the nurse aide;
 - f. Any other factors or considerations the panel determines to be pertinent to the final decision. The panel may request additional information from the nurse aide if more information is required to make a final determination.
3. Based on the review panel, with consideration given to the factors in Section 2, The Review Panel will issue a determination granting or denying the petition. This determination will be issued within thirty (30) days of the panel review. The MSDH/HFLC will remove the finding of neglect from the MS Nurse Aide Registry following a favorable decision. The nurse aide will be notified in writing by certified and regular mail of the favorable determination and removal of the finding of neglect from the MS Nurse Aide Registry.
 4. The complete petition for removal of a finding of neglect shall be delivered to the MSDH/HFLC by hand or by USPS, addressed to:

MS State Department of Health
Bureau of Health Facilities
Licensure and Certification
P.O. Box 1700
Jackson, MS 39215

Directions for completing the Petition for Removal of Finding of Neglect from the MS Nurse Aide Registry

Purpose: The purpose of this petition is to offer nurse aides with one finding of neglect the opportunity to appeal to the state agency for removal of said finding from the MS Nurse Aide Registry at least one (1) full year after placement of a finding of neglect on the MS Nurse Aide Registry.

Page 1 of 5

Date of Petition – In the space provided, give the date the form is completed.

Full Name – In the space provided, give first and last name of individual petitioning for removal of finding of neglect.

SSN – In space provided, the nurse aide should list his/her Social Security Number.

Address – In space provided, list the physical address of the nurse aide.

Contact – Home – In space provided, list home telephone number of the nurse aide.

Cell – In space provided, list cellular phone number of the nurse aide.

Other – In space provided, list any other telephone number at which the nurse aide can be contacted.

Email – In the space provided, list electronic mail address of the nurse aide.

1. In the space provided select yes or no if the nurse aide has been terminated, discharged, or resigned from a position. If yes, offer explanation.

2. In the space provided select yes or no if the nurse aide has been convicted of a misdemeanor or a felony crime and list the convictions in the space provided.

Page 2 of 5

3. In the space provided, offer a statement of why the nurse aide believes he/she should be given the opportunity to have an adverse finding of neglect removed from the registry and his/her certification as a nurse aide reinstated. (The nurse aide's certification must be reinstated due to revocation with the placement of adverse finding of neglect on the MS Nurse Aide Registry).

Rehabilitation and Education History

Page 3 of 5

In the space provided, list any rehabilitation and/or education received following the finding of neglect. The aide must also attach a copy of his/her testing results to show successful completion of the competency and evaluation examination. The aide must provide the name of the course or rehabilitation program, the name of the instructor or contact person, the address of the facility where training was conducted, the contact number to that facility, the dates of attendance, and the certification received.

Work History

Page 4 & 5 of 5

In the space provided list work history for the previous two (2) years. A summary from each employer is required and must include the following: dates of employment, job title, duties, reason(s) for leaving employment, job performance details, and any disciplinary action while employed.

PETITION FOR REMOVAL OF FINDING OF NEGLECT FROM THE MISSISSIPPI NURSE AIDE REGISTRY

Note: This petition is specific to only one finding of neglect and does not include an opportunity to petition for removal due to subsequent findings of neglect.

Date of Petition: _____

Full Name: _____ SSN: _____

Address: _____

Contact: Home () _____ Cell: () _____

Other () _____ Email: _____

This review requires a mandatory face to face interview.

1. Have you ever been involuntarily terminated, discharged, forced or asked to resign from any job?
Yes _____ No _____

If yes, please explain (use a separate sheet of paper if more space is needed):

2. Have you ever been convicted of a misdemeanor or felony crime?
Yes _____ No _____

If yes, please list all prior misdemeanor and/or felony convictions, and any extenuating or mitigating circumstances regarding such convictions (use a separate sheet of paper if more space is needed).

Rehabilitation and Education History

List any rehabilitation or education you have received following the original finding of neglect that is pertinent to the job duties of a nurse aide. Please attach a copy of testing results to verify successful completion of the Nurse Aide Competency and Evaluation Examination.

Name of Course/Rehabilitation Program: _____

Name of the Instructor and/or Contact Person: _____

Facility Address: _____

Phone Number: _____

Dates of Attendance: _____

Certificate Received: _____

Name of Course/Rehabilitation Program: _____

Name of the Instructor and/or Contact Person: _____

Facility Address: _____

Phone Number: _____

Dates of Attendance: _____

Certificate Received: _____

Name of Course/Rehabilitation Program: _____

Name of the Instructor and/or Contact Person: _____

Facility Address: _____

Phone Number: _____

Dates of Attendance: _____

Certificate Received: _____

Work History

Begin with your PRESENT or most recent employer and list your work history for the past two (2) years. (Use a separate sheet of paper if more space is needed.)

A summary from each employer listed below must accompany this petition. The summary must be completed on the employer's letterhead, signed and dated by the employer, and must include the following:

- Dates of Employment
- Job Title
- Job Duties
- Reason for leaving employment
- Job Performance
- Any disciplinary action while employed

Dates of Employment: _____

Name of Employer and Supervisor: _____

Address and Contact Number: _____

Job Title and Duties: _____

Reason for Leaving: _____

Dates of Employment: _____

Name of Employer and Supervisor: _____

Address and Contact Number: _____

Job Title and Duties: _____

Reason for Leaving: _____

Work History (cont.)

Dates of Employment: _____

Name of Employer and Supervisor: _____

Address and Contact Number: _____

Job Title and Duties: _____

Reason for Leaving: _____

Dates of Employment: _____

Name of Employer and Supervisor: _____

Address and Contact Number: _____

Job Title and Duties: _____

Reason for Leaving: _____

Dates of Employment: _____

Name of Employer and Supervisor: _____

Address and Contact Number: _____

Job Title and Duties: _____

Reason for Leaving: _____
