

**WAC 388-103-0210 May a nursing assistant petition the department to have their name removed from the vulnerable adult abuse registry?**

(1) This section implements 42 U.S.C. Sec. 1396r (g)(1)(D) and Sec. 1395i-3 (g)(1)(D) regarding a singular occurrence of neglect in a nursing facility or skilled nursing facility.

(2) A nursing assistant may petition the department to have their name removed from the vulnerable adult abuse registry, subject to the requirements of this section.

(3) Preliminary requirements for the department to accept a petition:

(a) At least one year must have elapsed between the date of the final substantiated finding and the date the department receives the petition;

(b) The final substantiated finding was a singular occurrence of neglect;

(c) The singular occurrence of neglect occurred in a nursing facility or skilled nursing facility; and

(d) The petition must be in writing and contain the following information:

(i) About the petitioner:

(A) Name;

(B) Date of birth;

(C) Social security number;

(D) Mailing address; and

(E) Phone number;

(ii) The final substantiated finding;

(iii) All documents regarding any disciplinary action, or any other negative action, taken against the petitioner under chapter 18.88A RCW;

(iv) A background check through the Washington state patrol that was completed no earlier than 30 days prior to the date the department accepts the petition;

(v) An affidavit stating why the petitioner believes the department should grant the petition. The statement must include whether the petitioner has abused or neglected a vulnerable adult since the final substantiated finding was entered;

(vi) A list of three references for the department to contact regarding the petitioner's employment and personal history, where two references must be professional references; and

(vii) Any other relevant information the petitioner wants the department to consider.

(4) Standard for removal.

(a) The department will accept a petition if the requirements of subsection (3) of this section are met.

(b) Once the petition is accepted, the petitioner must attend an in-person interview with the department. "In-person" means either physical presence with department personnel, or visual presence through electronic means.

(c) Once the petition is accepted and the interview is completed, the department will determine whether the petitioner's employment and personal history reflects a pattern of abusive behavior or neglect:

(i) If the department determines the petitioner's employment and personal history does not reflect a pattern of abusive behavior or neglect, the department approves the petition, and removes the petitioner's name from the vulnerable adult abuse registry.

(ii) If the department determines the petitioner's employment and personal history does reflect a pattern of abusive behavior or neglect, the department denies the petition.

(iii) If the department is unable to determine whether the petitioner's employment and personal history reflects a pattern of abusive behavior or neglect, the department denies the petition.

(5) Other information.

(a) The department will act with reasonable promptness upon receiving a petition that contains the information required under subsection (3) of this section, and make its decision within 60 days of accepting a petition.

(b) If the department requires additional information to make its determination, a letter will be sent to the petitioner requesting the additional information. The petitioner has 10 business days to provide the information. If the department does not receive the requested information, it may be unable to determine whether petitioner's employment and personal history reflects a pattern of abusive behavior or neglect, and deny the petition.

(c) Decisions and other correspondence regarding the petition will be mailed to the petitioner. At the petitioner's request, correspondence may also be sent via email.

(d) A petitioner does not have a right to an administrative hearing regarding any department action taken on a petition.

[Statutory Authority: RCW 74.34.068, 74.34.165, 42 U.S.C. Sec. 1396r (g)(1)(D), and 42 U.S.C. Sec. 1395i-3 (g)(1)(D). WSR 22-13-144, § 388-103-0210, filed 6/21/22, effective 7/22/22; WSR 21-11-108, § 388-103-0210, filed 5/19/21, effective 7/1/21.]