

1997

**HOUSE
HUMAN RESOURCES –
AGING**

MINUTES

HUMAN RESOURCES
SUBCOMMITTEE ON AGING

1997-1998

CHAIR
REPRESENTATIVE GENE WILSON

MS.SUE FLOYD
MR. JOHN YOUNG
RESEARCH STAFF

REBECCA JONES
CLERK

HUMAN RESOURCES

SUBCOMMITTEE ON AGING
1997-1998

MEMBERSHIP

REPRESENTATIVE	PHONE	ROOM	SEAT
GENE WILSON - CHAIR Rebecca Jones-CLERK	733-7727	1109	52
M.W. "HENRY" ALDRIGDE Chair/HUMAN RESOURCES Susan Groh	733-5958	640	39
DEBBIE CLARY Mary Jamison	715-3011	418B	75
BILLY JAMES CREECH Betty Anne Lennon	733-5829	635	42
ARLIE F. CULP Waneta Lord	733-5865	1010	62
W. PETE CUNNINGHAM Sylvia Green	733-5755	607	92
BEVERLY M. EARLE Monica McClain (RMM)	715-4466	602	95
CHARLOTTE A. GARDNER Barbara Hocutt	715-3017	417-B	7
JULIA CRAVEN HOWARD Chair/HUMAN RESOURCES Gail Stewart	733-5904	1021	8
HOWARD J. HUNTER, JR. Barbara Phillips	733-2962	613	68
RICHARD L. MOORE Kathy Calk	733-5661	1019	101

<u>REPRESENTATIVE</u>	<u>PHONE</u>	<u>ROOM</u>	<u>SEAT</u>
LISTEN BRYAN RAMSEY HUMAN RESOURCES (RMM) Dot Barber	733-5606	2217	48
JOHN RAYFIELD Karen George	733-3009	418-C	97
NURHAM WARWICK Carolyn Honeycutt	733-5886	1015	113
LARRY WOMBLE Phyllis Cameron	733-5751	540	105

HUMAN RESOURCES
SUBCOMMITTEE ON AGING
1997-1998
MEMBERSHIP PICTORIAL

REPRESENTATIVE
GENE WISON -CHAIR



REPRESENTATIVE
BEVERLY M. EARLE
(RMM)



REPRESENTATIVE
DEBBIE CLARY



REPRESENTATIVE
BILLY JAMES CREECH



REPRESENTATIVE
ARLIR F. CULP



REPRESENTATIVE
W. PETE CUNNINGHAM



REPRESENTATIVE
CHARLOTTE A. GARDNER



REPRESENTATIVE
LISTON BRYAN RAMSEY





REPRESENTATIVE
HOWARD J. HUNTER, JR.



REPRESENTATIVE
RICHARD L. MOORE



REPRESENTATIVE
JOHN RAYFIELD



REPRESENTATIVE
NURHAM WARWICK



REPRESENTATIVE
LARRY WOMBLE

ATTENDANCE

Human Resources Subcommittee on Aging

(Name of Committee)

DATES	4-3																	
Gene Wilson Chair	✓																	
Beverly Earle RMM	✓																	
Liston Ramsey	✓																	
Debbie Clary																		
Billy Creech	✓																	
Arlie Culp	✓																	
W. Pete Cunningham	✓																	
Charlotte Gardner	✓																	
Howard Hunter, Jr.	✓																	
Richard Moore																		
John Rayfield																		
Nurham Warwick	✓																	
Larry Womble	✓																	
STAFF																		
Sue Floyd	✓																	
John Young	✓																	
Rebecca Jones	✓																	
Gann Watson } Bill																		
Diana Jessup } Drafting																		

Make New

— —

— —

— —

Majority Leader

Rep. Leo Daughtry

— —

Majority Whip

Rep. Julia Howard

VISITOR REGISTRATION SHEET

Human Resources

Name of Committee

4-3-97

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
ERIC BATES	THE INDEPENDENT
Marian P. Hession	Friends of Residents in LTC
David Pichard	Arch Inc
Helen Lyman	Mech. Co.
Lynda McDaniel	DHR/DFS
Tommy Worth	CAROLINAS HEALTHCARE System
Lou Wilson	NCA LTC7
Coryn Hawthorne	NCHA
Robert	Banc Assoc / LTC
CHRISTOPHER	NCA/CA
Angela Williams	Banc Assoc / LTC
Pan Bargin	FOR
C. Borne	R/W Borne
Will Jay	NCAHC
PEYTON MANNARD	GPR
Stephanie Gibbs	Charlotte Observer

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Robert Brown

NRANPMA

AGENDA

HUMAN RESOURCES/Subcommittee on Aging
612 LOB

April 3, 1997

Call Meeting to Order- Representative Gene Wilson

Introduction of Members and Staff-

Rebecca Jones-Clerk

John Young & Sue Floyd -Research

Gann Watson & Diana Jessup- Bill Drafting

Introduction of Pages- Jason Kiser- Iredell Co.

Chad Swanson- Harnett Co.

John Young & Sue Floyd- **HB 110-“Adult Care Home and
Nursing Home Penalties”**

Bill Sponsor- Representative Beverly Earle

Discussion of Bill

Adjournment

HUMAN RESOURCES
Subcommittee on Aging

Minutes

April 3, 1997

The HUMAN RESOURCE Subcommittee on Aging held its first meeting on Thursday, April 3, 1997, in room 544 of the Legislative Office Building. Members present were Representatives Gene Wilson, Chair, Beverly Earle, RMM, Liston Ramsey, Billy Creech, Arlie Culp, W. Pete Cunningham, Charlotte Gardner, Howard Hunter, Jr., Nurham Warwick, Larry Womble. Staff present was Rebecca Jones, Committee Clerk, Sue Floyd and John Young, Research, and Gann Watson and Diana Jessup from Bill Drafting.

Representative Wilson called the meeting to order at 11:05 A.M. He recognized members, staff and the pages.

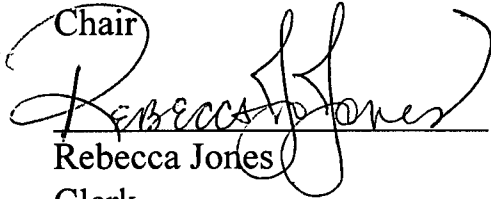
On the agenda was House Bill 110 "Adult Care Home and Nursing Penalties" sponsored by Representative Beverly Earle. A handout from the research staff was passed out to the committee and made part of the minutes. Attachment 1. This handout was discussed thoroughly with the committee. Lou Wilson from the Long Term Care Industry said that they need to change some language in the bill so they could make it better. Representative Culp asked if the penalties in a type A violation are usually doubled. John Young said that it would make it stiffer for those who committed serious violations. Representative Womble wanted to know what a type A penalty involved. A class "A" violation creates substantial risk that death or serious physical harm to a resident will occur or that it has occurred. An example of a type "A" violation was if a person wandered off the facilities and got hit by a car, or they fell into a pond and death occurred; or when a facility did not provide adequate supervision.

Representative Howard made a motion to refer House Bill 110 to the standing committee on HUMAN RESOURCES with out prejudice. Representative Culp seconded the motion. The motion was carried..

Representative Wilson adjourned the meeting at 11:50 A.M.

Respectfully Submitted,

Representative Gene Wilson
Chair


Rebecca Jones

Clerk

Attachments

Attachment 1- Memorandum from John Young and Sue Floyd



**North Carolina General Assembly
Legislative Services Agency**

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones St.
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 100, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 24, 1997

MEMORANDUM

TO: House Subcommittee on Aging
FROM: John Young and Sue Floyd
RE: HB 110-Adult Care Home and Nursing Home Penalties

The 1987 General Assembly established an administrative penalties process for violations of nursing home and rest home facility laws. These statutes that allow the Department of Human Resources to levy penalties on nursing homes and adult care homes do the following:

1. Classifies violations into;
 - a. Type A-violation that is a substantial risk that death or serious physical harm has or might occur with a range of fines from \$250 to \$5000,
 - b. Type B-violation that has a direct relationship to the health, safety, or welfare of any patient, but which does not create substantial risk that death or serious physical harm will occur with a range of fines up to \$500.
2. Provides additional penalties for failure to correct violations.
3. Sets factors to be considered in determining the amount of the penalty.
4. Sets procedures for contesting penalties under the Administrative Procedure act.
5. Allows civil action for recovery of unpaid penalties.
6. Provides review of penalties by the Penalty Review Committee established by G. S. 131D-34(h). The Committee is composed of nine members appointed by the Secretary of DHR.



MEMORANDUM

Page 2

March 24, 1997

In addition to civil money penalties, DHR has several enforcement remedies available in State law:

1. Provisional license;
2. Suspension of admissions;
3. Temporary management;
4. Revocation of a license; and
5. Summary suspension of a license.

House Bill 110 would make the following changes to the current statutes that levy civil penalties on adult care homes and nursing homes:

1. Changes the range of civil penalties for Type A violations to "not less than \$500 nor more than \$10,000" (Currently, not less than \$250 nor more than \$5000). This change would apply to adult care homes licensed for more than nine beds and nursing homes.
2. Deletes the money penalty for Type B violations but requires DHR to require a plan of correction and DHR may require a plan of correction within a specific time period to address any Type B violation.
3. Requires local county departments of social services and DHR's Division of Facility Services personnel submit proposed penalty recommendations within 45 days of the citation of a violation.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 110*

Short Title: Penalties for Adult Care/Nursing Homes.

(Public)

Sponsors: Representatives Earle; Alexander, Bonner, Braswell, Clary, Cunningham, Easterling, Goodwin, H. Hunter, Kinney, Luebke, McAllister, McMahan, Moore, Mosley, Rogers, Russell, Saunders, Shubert, Sutton, Wainwright, Warner, G. Wilson, and Wright.

Referred to: Human Resources, if favorable, Judiciary II.

February 12, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ADJUST ADMINISTRATIVE PENALTIES FOR ADULT CARE
3 HOMES AND NURSING HOMES WHICH ARE FOUND TO BE IN
4 VIOLATION OF APPLICABLE STATE AND FEDERAL LAWS AND
5 REGULATIONS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 131D-34 reads as rewritten:
8 "§ 131D-34. Penalties; remedies.
9 (a) Violations Classified. -- The Department of Human Resources shall impose an
10 administrative penalty in accordance with provisions of this Article on any facility
11 which is found to be in violation of requirements of G.S. 131D-21 or applicable State
12 and federal laws and regulations. Citations issued for violations shall be classified
13 according to the nature of the violation as follows:
14 (1) 'Type A Violation' means a violation by a facility of the
15 regulations, standards, and requirements set forth in G.S. 131D-21
16 or applicable State or federal laws and regulations governing the
17 licensure or certification of a facility which creates substantial risk
18 that death or serious physical harm to a resident will occur or
19 where such harm has occurred. Type A Violations shall be abated
20 or eliminated immediately. The Department shall require a plan
21 of correction for each Type A Violation. The Department may

1 direct the facility to establish a specific plan of correction within a
2 specific time period to address any Type A Violation. The
3 Department shall impose a civil penalty in an amount not less than
4 two hundred fifty dollars (\$250.00) nor more than five thousand
5 dollars (\$5000) for each Type A ~~Violation.~~ Violation in homes
6 licensed for nine or fewer beds. The Department shall impose a
7 civil penalty in an amount not less than five hundred dollars
8 (\$500.00) nor more than ten thousand dollars(\$10,000) for each
9 Type A Violation in facilities licensed for 10 or more beds.

10 (2) 'Type B Violation' means a violation by a facility of the
11 regulations, standards and requirements set forth in G.S. 131D-21
12 or applicable State or federal laws and regulations governing the
13 licensure or certification of a facility which present a direct
14 relationship to the health, safety, or welfare of any resident, but
15 which does not create substantial risk that death or serious physical
16 harm will occur. ~~The Department may impose a civil penalty in an~~
17 ~~amount up to two hundred fifty dollars (\$250.00) for each Type B~~
18 ~~Violation. A citation for a Type B Violation which relates to the~~
19 ~~physical plant, systems, or equipment of the facility and which~~
20 ~~causes no harm to a resident of the facility shall provide 10 days to~~
21 ~~correct the violation. If such a Type B Violation, that is not a~~
22 ~~repeat violation as specified in (b)(3) of this section, is corrected~~
23 ~~within the 10 days, no civil penalty shall be imposed. The~~
24 Department shall require a plan of correction for each Type B
25 Violation. The Department may direct the facility to establish a
26 specific plan of correction within a specific time period to address
27 any Type B Violation.

28 (b) Penalties for failure to correct violations within time specified.

29 (1) Where a facility has failed to correct a Type A Violation, the
30 Department shall assess the facility a civil penalty in the amount of
31 up to five hundred dollars (\$500.00) for each day that the
32 deficiency ~~continues.~~ continues beyond the time specified in the
33 plan of correction approved by the Department or its authorized
34 representative. The Department or its authorized representative
35 shall ~~conduct an on-site inspection of the facility to insure~~ ensure
36 that the violation has been corrected.

37 (2) Where a facility has failed to correct a Type B Violation within the
38 time specified for correction by the ~~Department,~~ Department or its
39 authorized representative, the Department shall assess the facility a
40 civil penalty in the amount of up to two hundred dollars (\$200.00)
41 for each day that the deficiency continues beyond the date
42 specified for correction without just reason for such failure. The
43 Department or its authorized representative shall ~~conduct an~~

- 1 ~~on-site inspection of the facility to insure~~ ensure that the violation
2 has been corrected.
- 3 (3) The Department shall impose a civil penalty which is treble the
4 amount assessed under subdivision (1) ~~or (2)~~ of subsection (a)
5 when a facility under the same management, ownership, or ~~control~~:
6 a. ~~Has control~~ has received a citation and paid a ~~fine~~, ~~or~~
7 b. ~~Has received a citation for which the Department in the~~
8 ~~discretion granted to it under subdivision (2) of subsection~~
9 ~~(a) did not impose a penalty, fine~~
10 for violating the same specific provision of a statute or regulation
11 for which it received a citation during the previous ~~six months or~~
12 ~~within the time period of the previous licensure inspection,~~
13 ~~whichever time period is longer.~~ 12 months. The counting of the
14 ~~six-month~~ 12-month period shall be tolled during any time when
15 the facility is being operated by a court-appointed temporary
16 manager pursuant to Article 4 of this Chapter.
- 17 (c) Factors to be considered in determining amount of initial penalty. In
18 determining the amount of the initial penalty to be imposed under this section, the
19 Department shall consider the following factors:
20 (1) The gravity of the violation, including the probability that death or
21 serious physical harm to a resident will result or has resulted; the
22 severity of the actual or potential harm, and the extent to which
23 the provisions of the applicable statutes or regulations were
24 violated;
25 (2) The reasonable diligence exercised by the licensee and efforts to
26 correct violations;
27 (3) The number and type of previous violations committed by the
28 licensee;
29 (4) The amount of assessment necessary to insure immediate and
30 continued compliance; and
31 (5) The number of patients put at risk by the violation.
- 32 (c1) Local county departments of social services and Division of Facilities Services
33 personnel shall submit proposed penalty recommendations to the Department within
34 45 days of the citation of a violation.
- 35 (d) The Department shall impose a civil penalty on any facility which refuses to
36 allow an authorized representative of the Department to inspect the premises and
37 records of the facility.
- 38 (e) Any facility wishing to contest a penalty shall be entitled to an administrative
39 hearing as provided in the Administrative Procedure Act, Chapter 150B of the
40 General Statutes. A petition for a contested case shall be filed within 30 days after
41 the Department mails a notice of penalty to a licensee. One issue at the
42 administrative hearing shall be the reasonableness of the amount of any civil penalty
43 assessed by the Department. If a civil penalty is found to be unreasonable, the hearing
44 officer may recommend that the penalty be modified accordingly.

1 (f) Notwithstanding the notice requirements of G.S. 131D-26(b), any penalty
2 imposed by the Department of Human Resources under this section shall commence
3 on the day the violation began.

4 (g) The Secretary may bring a civil action in the superior court of the county
5 wherein the violation occurred to recover the amount of the administrative penalty
6 whenever a facility:

7 (1) Which has not requested an administrative hearing fails to pay the
8 penalty within 60 days after being notified of the penalty, or

9 (2) Which has requested an administrative hearing fails to pay the
10 penalty within 60 days after receipt of a written copy of the
11 decision as provided in G.S. 150B-36.

12 (h) The Secretary shall establish a penalty review committee within the
13 Department, which shall review administrative penalties assessed pursuant to this
14 section and pursuant to G.S. 131E-129. The Secretary shall ensure that departmental
15 staff review of local departments of social services' penalty recommendations along
16 with prepared staff recommendations for the penalty review committee are completed
17 within 60 days of receipt by the Department of the local recommendations. ~~The
18 Penalty Review Committee shall not review penalty recommendations agreed to by
19 the Department and the long term care facility for Type B violations except those
20 violations that have been previously cited against the long term care facility during
21 the previous 12 months or within the time period of the previous licensure
22 inspection, whichever time period is longer.~~ The Secretary shall ensure that the
23 Nursing Home/Adult Care Home Penalty Review Committee established by this
24 subsection is comprised of nine members. At least one member shall be appointed
25 from each of the following categories:

26 (1) A licensed pharmacist;

27 (2) A registered nurse experienced in long-term care;

28 (3) A representative of a nursing home;

29 (4) A representative of an adult care home; and

30 (5) Two public members. One shall be a 'near' relative of a nursing
31 home patient, chosen from a list prepared by the Office of State
32 Long-Term Care Ombudsman, Division of Aging, Department of
33 Human Resources. One shall be a 'near' relative of a rest home
34 patient, chosen from a list prepared by the Office of State Long-
35 Term Care Ombudsman, Division of Aging, Department of Human
36 Resources. For purposes of this subdivision, a 'near' relative is a
37 spouse, sibling, parent, child, grandparent, or grandchild.

38 Neither the pharmacist, nurse, nor public members appointed under this subsection
39 nor any member of their immediate families shall be employed by or own any
40 interest in a nursing home or adult care home.

41 Each member of the Committee shall serve a term of two years. The initial terms
42 of the members shall commence on August 3, 1989. The Secretary shall fill all
43 vacancies. Unexcused absences from three consecutive meetings constitute
44 resignation from the Committee."

1 Section 2. G.S. 131E-129 reads as rewritten:

2 **"§ 131E-129. Penalties.**

3 (a) Violations classified. The Department shall impose an administrative penalty
4 in accordance with provisions of this Part on any facility which is found to be in
5 violation of the requirements of G.S. 131E-117 or applicable State and federal laws
6 and regulations. Citations issued for violations shall be classified according to the
7 nature of the violation as follows:

8 (1) 'Type A Violation' means a violation by a facility of the
9 regulations, standards, and requirements set forth in G.S. 131E-117,
10 or applicable State or federal laws and regulations governing the
11 licensure or certification of a facility which creates substantial risk
12 that death or serious physical harm to a resident will occur or
13 where such harm has occurred. Type A Violations shall be abated
14 or eliminated immediately. The Department shall require a plan
15 of correction for each Type A Violation. The Department may
16 direct the facility to establish a specific plan of correction within a
17 specific time period to address any Type A Violation. The
18 Department shall impose a civil penalty in an amount not less than
19 ~~two hundred fifty dollars (\$250.00) nor more than five thousand~~
20 ~~dollars (\$5,000)~~ five hundred dollars (\$500.00) nor more than ten
21 thousand dollars (\$10,000) for each Type A Violation. The
22 Department shall require a plan of correction for each Type A
23 Violation. The Department may direct the facility to establish a
24 specific plan of correction within a specific time period to address
25 any Type A Violation.

26 (2) 'Type B Violation' means a violation by a facility of the
27 regulations, standards and requirements set forth in G.S. 131E-117
28 or applicable State or federal laws and regulations governing the
29 licensure or certification of a facility which presents a direct
30 relationship to the health, safety, or welfare of any resident, but
31 which does not create substantial risk that death or serious physical
32 harm will occur. ~~The Department may impose a civil penalty in an~~
33 ~~amount up to five hundred dollars (\$500.00) for each Type B~~
34 ~~Violation. A citation for a Type B Violation which relates to the~~
35 ~~physical plant, systems, or equipment of the facility and which~~
36 ~~causes no harm to a resident of the facility shall provide 10 days to~~
37 ~~correct the violation. If such a Type B Violation, which is not a~~
38 ~~repeat violation as specified in (b)(3) of this section, is corrected~~
39 ~~within the 10 days, no civil penalty shall be imposed. The~~
40 Department shall require a plan of correction for each Type B
41 Violation. The Department may direct the facility to establish a
42 specific plan of correction within a specific time frame to address
43 any Type B Violation.

44 (b) Penalties for failure to correct violations within time specified.

- 1 (1) Where a facility has failed to correct a Type A Violation, the
2 Department shall assess the facility a civil penalty in the amount of
3 up to five hundred dollars (\$500.00) for each day that the
4 deficiency ~~continues~~ continues beyond the time specified in the
5 plan of correction approved by the Department or its authorized
6 representative. The Department or its authorized representative
7 shall ~~conduct an on-site inspection of the facility to insure~~ ensure
8 that the violation has been corrected.
- 9 (2) Where a facility has failed to correct a Type B Violation within the
10 time specified for correction by the ~~Department~~, Department or its
11 authorized representative, the Department shall assess the facility a
12 civil penalty in the amount of up to two hundred dollars (\$200.00)
13 for each day that the deficiency continues beyond the ~~date~~
14 ~~specified for correction~~ time specified in the plan of correction
15 approved by the Department or its authorized representative
16 without just reason for such failure. The Department or its
17 authorized representative shall ~~conduct an on-site inspection of the~~
18 ~~facility to insure~~ ensure that the violation has been corrected.
- 19 (3) The Department shall impose a civil penalty which is treble the
20 amount assessed under subdivision (1) ~~or (2)~~ of subsection (a)
21 when a facility under the same management, ownership, or ~~control~~:
22 a. ~~Has control has~~ has received a citation and paid a fine, ~~or~~
23 b. ~~Has received a citation for which the Department in its~~
24 ~~discretion granted to it under subdivision (2) of subsection~~
25 ~~(a) but did not impose a penalty, fine~~
26 for violating the same specific provision of a statute or regulation
27 for which it has received a citation during the previous 12 ~~months~~
28 ~~or within the time period of the previous licensure inspection,~~
29 ~~whichever time period is longer.~~ months. The counting of the 12-
30 month period shall be tolled during any time when the facility is
31 being operated by a court-appointed temporary manager pursuant
32 to Article 13 of this Chapter.
- 33 (c) Factors to be considered in determining amount of initial penalty. In
34 determining the amount of the initial penalty to be imposed under this section, the
35 Department shall consider the following factors:
- 36 (1) The gravity of the violation, including the probability that death or
37 serious physical harm to a resident will result or has resulted; the
38 severity of the actual or potential harm, and the extent to which
39 the provisions of the applicable statutes or regulations were
40 violated;
- 41 (2) The reasonable diligence exercised by the licensee and efforts to
42 correct violations;
- 43 (3) The number and type of previous violations committed by the
44 licensee;

1 (4) The amount of assessment necessary to insure immediate and
2 continued compliance; and

3 (5) The number of patients put at risk by the violation.

4 (d) The Department shall impose a civil penalty on any facility which refuses to
5 allow an authorized representative of the Department to inspect the premises and
6 records of the facility.

7 (e) Any facility wishing to contest a penalty shall be entitled to an administrative
8 hearing as provided in the Administrative Procedure Act, Chapter 150B of the
9 General Statutes. One issue at the administrative hearing shall be the reasonableness
10 of the amount of any civil penalty assessed by the Department. If a civil penalty is
11 found to be unreasonable, the hearing officer may recommend that the penalty be
12 modified accordingly.

13 (f) The Secretary may bring a civil action in the superior court of the county
14 wherein the violation occurred to recover the amount of the administrative penalty
15 whenever a facility:

16 (1) Which has not requested an administrative hearing fails to pay the
17 penalty within 60 days after being notified of the penalty; or

18 (2) Which has requested an administrative hearing fails to pay the
19 penalty within 60 days after receipt of a written copy of the
20 decision as provided in G.S. 150B-36.

21 (g) The penalty review committee established pursuant to G.S. 131D-34(h) shall
22 review administrative penalties assessed pursuant to this ~~section, provided, however,~~
23 ~~that the Penalty Review Committee shall not review penalty recommendations agreed~~
24 ~~to by the Department and the long term care facility for Type B violations except~~
25 ~~those violations that have been previously cited against the long term care facility~~
26 ~~during the previous 12 months, or within the time period of the previous licensure~~
27 ~~inspection, whichever time period is longer. section.~~

28 (h) The Department shall not assess an administrative penalty against a facility
29 under this section if a civil monetary penalty has been assessed for the same violation
30 under federal enforcement laws and regulations."

31 Section 3. This act becomes effective August 1, 1997, and applies to
32 violations committed on or after that date.

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Gene Wilson for the Permanent Subcommittee on Aging of the Standing
Committee on HUMAN RESOURCES .

- Committee Substitute for
H.B. 110 **A BILL TO BE ENTITLED AN ACT TO ADJUST
ADMINISTRATIVE PENALTIES FOR ADULT CARE HOMES AND NURSING HOMES WHICH
ARE FOUND TO BE IN VIOLATION OF APPLICABLE STATE AND FEDERAL LAWS AND
REGULATIONS.**

REPORTED TO THE STANDING COMMITTEE ON **HUMAN RESOURCES**

RECOMMENDED ACTION:

- With a favorable recommendation.
- With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- With a favorable recommendation, as amended.
- With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- With an unfavorable recommendation.
- With a unfavorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
- With a favorable recommendation as to proposed House committee substitute bill, which
changes the title, unfavorable as to Senate committee substitute bill.
- Without prejudice.
- Other recommended action: -----

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. for the Standing Committee on -----

s/ _____

- With a favorable report.
- With a favorable report, as amended.
- With a favorable report as to committee substitute bill which changes the title, unfavorable
as to original bill.
- And having received a unanimous vote in committee, be placed on the Consent Calendar.-

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(a), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The (committee substitute) bill/resolution (, as amended,) is placed on the Consent Calendar of _____. The original bill/resolution is placed on the Unfavorable Calendar.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(a), the (House) committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/ resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV _____).

____ Rep. _____ offers Amendment No. ____ which (is adopted.) (fails of adoption.) (by EV _____) () This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ RC) (, by EV _____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ RC) (, by EV _____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
____ House amendment (s).
____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ RC) (, by EV _____,) and the bill is ordered enrolled.

HUMAN RESOURCES
Subcommittee on Aging

Minutes

April 29, 1997

The HUMAN RESOURCES Subcommittee on Aging held a meeting around the chamber desk of Representative Gene Wilson after session on Tuesday, April 29, 1997. A quorum was present and the meeting was called to order.

House Bill 897 (Nursing/Rest Home Adv. Comm. Appts.) was discussed by the committee. Representative Howard made a motion to give the bill a favorable report and be sent directly to the House floor. The motion was carried.

Representative Wilson adjourned the meeting.

Respectfully submitted,

Representative Gene Wilson
Chair

Rebecca Jones
Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 897

Short Title: Nursing/Rest Home Adv. Comm. Appts.

(Public)

Sponsors: Representatives McComas; and Watson.

Referred to: Human Resources.

April 8, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE REQUIREMENTS PERTAINING TO THE NUMBER
3 OF MEMBERS OF ADVISORY COMMITTEES OF NURSING HOMES AND
4 REST HOMES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 131E-128(b)(1) reads as rewritten:

7 "(b) (1) A community advisory committee shall be established in each
8 county which has a nursing home, including a nursing home
9 operated by a hospital licensed under Article 5 of G.S. Chapter
10 131E, shall serve all the homes in the county, and shall work with
11 each home in the best interest of the persons residing in each
12 home. In a county which has one, two, or three nursing homes, the
13 committee shall have five members. In a county with four or more
14 nursing homes, the committee ~~shall have one additional member~~
15 ~~for each nursing home in excess of three.~~ may have up to five
16 additional members at the discretion of the county commissioners."

17 Section 2. G.S. 131D-31(b) reads as rewritten:

18 "(b) Establishment and Appointment of Committees. --

19 (1) A community advisory committee shall be established in each
20 county that has at least one licensed adult care ~~home~~ home, shall
21 serve all the homes in the county, and shall work with each of
22 these homes for the best interests of the residents. In a county that
23 has one, two, or three adult care homes with 10 or more beds, the
24 committee shall have five members.

- 1 (2) In a county with four or more adult care homes with 10 or more
2 beds, the committee shall have one additional member for each
3 adult care home with 10 or more beds in excess of three, up to a
4 maximum of ~~20~~ 25 members. In each county with four or more
5 adult care homes with 10 or more beds, the committee shall
6 establish a subcommittee of no more than five members and no
7 fewer than three members from the committee for each adult care
8 home in the county. Each member must serve on at least one
9 subcommittee.
- 10 (3) In counties with no adult care homes with 10 or more beds, the
11 committee shall have five members. Regardless of how many
12 members a particular community advisory committee is required to
13 have, at least one member of each committee shall be a person
14 involved in the area of mental retardation.
- 15 (4) The boards of county commissioners are encouraged to appoint the
16 Adult Care Home Community Advisory Committees. Of the
17 members, a minority (not less than one-third, but as close to one-
18 third as possible) shall be chosen from among persons nominated
19 by a majority of the chief administrators of adult care homes in the
20 county. If the adult care home administrators fail to make a
21 nomination within 45 days after written notification has been sent
22 to them requesting a nomination, these appointments may be made
23 without nominations. If the county commissioners fail to appoint
24 members to a committee by July 1, 1983, the appointments shall be
25 made by the Assistant Secretary for Aging, Department of Human
26 Resources, no sooner than 45 days after nominations have been
27 requested from the adult care home administrators, but no later
28 than October 1, 1983. In making appointments, the Assistant
29 Secretary for Aging shall follow the same appointment process as
30 that specified for the County Commissioners."

31 Section 3. This act is effective when it becomes law.

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Gene Wilson for the Permanent Subcommittee on Aging of the Standing
Committee on HUMAN RESOURCES.

- Committee Substitute for
H.B. 897 **A BILL TO BE ENTITLED AN ACT TO AMEND THE
REQUIREMENTS PERTAINING TO THE NUMBER OF MEMBERS OF ADVISORY
COMMITTEES OF NURSING HOMES AND REST HOMES.**

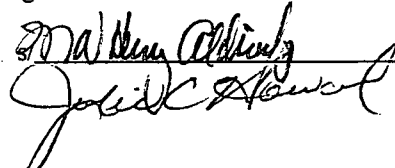
REPORTED TO THE STANDING COMMITTEE ON

RECOMMENDED ACTION:

- With a favorable recommendation.
- With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- With a favorable recommendation, as amended.
- With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- With an unfavorable recommendation.
- With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
- With a favorable recommendation as to proposed House committee substitute bill, which
changes the title, unfavorable as to Senate committee substitute bill.
- Without prejudice.
- Other recommended action: -----

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. HOWARD/ALDRIDGE for the Standing Committee on HUMAN RESOURCES.



- With a favorable report.
- With a favorable report, as amended.
- With a favorable report as to committee substitute bill (#), which changes the title,
unfavorable as to original bill (Committee Substitute Bill #). (and recommendation that the
committee substitute bill (#) be referred to the Committee on .)
- And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Gene Wilson for the Permanent Subcommittee on Aging of the Standing Committee on HUMAN RESOURCES.

- Committee Substitute for
H.B. 897 **A BILL TO BE ENTITLED AN ACT TO AMEND THE REQUIREMENTS PERTAINING TO THE NUMBER OF MEMBERS OF ADVISORY COMMITTEES OF NURSING HOMES AND REST HOMES.**

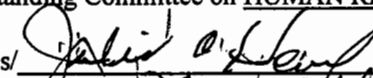

REPORTED TO THE STANDING COMMITTEE ON

RECOMMENDED ACTION:

- With a favorable recommendation.
- With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- With a favorable recommendation, as amended.
- With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- With an unfavorable recommendation.
- With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- Without prejudice.
- Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Reps. HOWARD and ALDRIDGE for the Standing Committee on HUMAN RESOURCES.

s/ 


- With a favorable report.
- With a favorable report, as amended.
- With a favorable report as to committee substitute bill (# _____), which changes the title, unfavorable as to original bill (~~Committee Substitute Bill # _____~~). (and recommendation that the ~~committee substitute bill (# _____) be referred to the Committee on _____~~).
- And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

1 has one, two, or three adult care homes with 10 or more beds, the
2 committee shall have five members.

3 (2) In a county with four or more adult care homes with 10 or more
4 beds, the committee shall have one additional member for each
5 adult care home with 10 or more beds in excess of three, ~~up to~~ and
6 may have up to five additional members at the discretion of the
7 county commissioners, not to exceed a maximum of ~~20~~ 25
8 members. In each county with four or more adult care homes with
9 10 or more beds, the committee shall establish a subcommittee of
10 no more than five members and no fewer than three members
11 from the committee for each adult care home in the county. Each
12 member must serve on at least one subcommittee.

13 (3) In counties with no adult care homes with 10 or more beds, the
14 committee shall have five members. Regardless of how many
15 members a particular community advisory committee is required to
16 have, at least one member of each committee shall be a person
17 involved in the area of mental retardation.

18 (4) The boards of county commissioners are encouraged to appoint the
19 Adult Care Home Community Advisory Committees. Of the
20 members, a minority (not less than one-third, but as close to one-
21 third as possible) shall be chosen from among persons nominated
22 by a majority of the chief administrators of adult care homes in the
23 county. If the adult care home administrators fail to make a
24 nomination within 45 days after written notification has been sent
25 to them requesting a nomination, these appointments may be made
26 without nominations. If the county commissioners fail to appoint
27 members to a committee by July 1, 1983, the appointments shall be
28 made by the Assistant Secretary for Aging, Department of Human
29 Resources, no sooner than 45 days after nominations have been
30 requested from the adult care home administrators, but no later
31 than October 1, 1983. In making appointments, the Assistant
32 Secretary for Aging shall follow the same appointment process as
33 that specified for the County Commissioners."

34 Section 3. This act is effective when it becomes law.

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Gene Wilson for the Permanent Subcommittee on Aging of the Standing
Committee on HUMAN RESOURCES.

- Committee Substitute for
H.B. 897 A BILL TO BE ENTITLED AN ACT TO AMEND THE
REQUIREMENTS PERTAINING TO THE NUMBER OF MEMBERS OF ADVISORY
COMMITTEES OF NURSING HOMES AND REST HOMES.

REPORTED TO THE STANDING COMMITTEE ON

RECOMMENDED ACTION:

- With a favorable recommendation.
- With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- With a favorable recommendation, as amended.
- With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- With an unfavorable recommendation.
- With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
- With a favorable recommendation as to proposed House committee substitute bill, which
changes the title, unfavorable as to Senate committee substitute bill.
- Without prejudice.
- Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Reps. HOWARD and ALDRIDGE for the Standing Committee on HUMAN RESOURCES.

s/ *Julie A. Howard*
Mark Aldridge

- With a favorable report.
- With a favorable report, as amended.
- With a favorable report as to committee substitute bill (~~#~~), which changes the title,
unfavorable as to original bill (~~Committee Substitute Bill #~~), (and recommendation that the
~~committee substitute bill (#) be referred to the Committee on~~).
- And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

① By Representative(s) Gene Wilson for the Permanent Subcommittee on Aging of the Standing Committee on HUMAN RESOURCES,

- ③ Committee Substitute for H.B. 897 A BILL TO BE ENTITLED AN ACT TO AMEND THE REQUIREMENTS PERTAINING TO THE NUMBER OF MEMBERS OF ADVISORY COMMITTEES OF NURSING HOMES AND REST HOMES,

REPORTED TO THE STANDING COMMITTEE ON

RECOMMENDED ACTION:

- With a favorable recommendation.
- With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- With a favorable recommendation, as amended.
- With a favorable recommendation, as amended, and recommend that the bill be re-referred to the Committee on
- With an unfavorable recommendation.
- With a favorable recommendation as to proposed committee substitute bill which changes the title, unfavorable as to original bill.
- With a favorable recommendation as to proposed House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.
- Without prejudice.
- Other recommended action: -----

③ WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY TO THE FLOOR OF THE HOUSE:

Rep. HOWARD/ALDRIDGE for the Standing Committee on HUMAN RESOURCES.

Howard Aldridge
John Howard

- ④ With a favorable report.
- With a favorable report, as amended.
- With a favorable report as to committee substitute bill (#), which changes the title, unfavorable as to original bill (Committee Substitute Bill #). (and recommendation that the committee substitute bill (#) be referred to the Committee on .)
- And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

(over)

897

H.B. _____

CHAP. _____

~~451~~
745

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REQUIREMENTS PERTAINING TO THE NUMBER OF MEMBERS OF ADVISORY COMMITTEES OF NURSING HOMES AND REST HOMES.

Introduced by Representative(s)	McComas	<u>W. Tolson</u>	_____
_____	_____	_____	_____
_____	_____	_____	_____

Principal Clerk's Use Only

PASSED 1st READING
APR 8 1997
 AND REFERRED TO COMMITTEE
 ON Human Resources

PLACED ON CALENDAR

APR 30 1997

Pursuant to Rule 33(a)

5/1/97

The Committee/Subcommittee on Human Resources refers the bill to Sub/Aging

Reps. Howard and Aldridge
For the Committee

Referred to Committee/Subcommittee

on Aging

APR 21 '97

The ^{Sub}Committee on Aging a majority being present, having considered this bill, recommend that it do ~~not~~ pass.

~~Rep. Howard and Aldridge~~

For the Committee

P. Wilson

REPORTED FAVORABLY APR 30 1997

but Comm. Sub. Co. Res.