

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 94*

Short Title: Penalty Review Committee Changes. (Public)

Sponsors: Representatives Weiss, Earle, Bordsen, England (Primary Sponsors); Adams, Alexander, Carney, Clary, Coates, Coleman, Farmer-Butterfield, Fisher, Gibson, Glazier, Harrison, Jeffus, Luebke, Martin, Ross, Wainwright, E. Warren, Womble, and Wray.

Referred to: Rules, Calendar, and Operations of the House.

February 8, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE PENALTY REVIEW COMMITTEE PROCESS, AS
2 RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON
3 AGING.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 131D-34(h) reads as rewritten:

7 "(h) The Secretary shall establish a penalty review committee within the
8 Department, which shall meet as often as needed, but no less frequently than once each
9 quarter of the year, at least semiannually to review violations and penalties imposed by
10 the Adult Care Licensure Section; provide a forum for residents, guardians or families
11 of residents, local department of social services, and providers; and make
12 recommendations to the Department for changes in policy, training, or rules as a result
13 of its review and publish a report. to review administrative penalties assessed pursuant
14 to this section and pursuant to G.S. 131E-129 as follows:

15 (1) The Secretary shall administer the work of the Committee and provide
16 public notice of its meetings via Web site, and provide direct notice
17 to the following parties involved in the penalties the Committee will be
18 reviewing:

- 19 a. The licensed provider; provider, who upon receipt of the notice,
20 shall post the notice of the scheduled Penalty Review
21 Committee meeting in a conspicuous place available to
22 residents, family members, and the public;
23 b. The local department of social services that is responsible for
24 oversight of the facility involved;
25 c. The residents affected; and

- 1 d. ~~The families or guardians of the residents affected. Those~~
2 individuals lawfully designated by the affected resident to make
3 health care decisions for the resident.
- 4 (2) The Secretary shall ensure that the Nursing Home/Adult Care Home
5 Penalty Review Committee established by this subsection is comprised
6 of nine members. At least one member shall be appointed from each of
7 the following categories:
8 a. A licensed pharmacist;
9 b. A registered nurse experienced in long term care;
10 c. A representative of a nursing home;
11 d. A representative of an adult care home; and
12 e. Two public members. One shall be a "near" relative of a nursing
13 home patient, chosen from a list prepared by the Office of State
14 Long Term Care Ombudsman, Division of Aging, Department
15 of Health and Human Services. One shall be a "near" relative of
16 a rest home patient, chosen from a list prepared by the Office of
17 State Long Term Care Ombudsman, Division of Aging,
18 Department of Health and Human Services. For purposes of this
19 subdivision, a "near" relative is a spouse, sibling, parent, child,
20 grandparent, or grandchild.
- 21 (3) Neither the pharmacist, nurse, nor public members appointed under
22 this subsection nor any member of their immediate families shall be
23 employed by or own any interest in a nursing home or adult care
24 home.
- 25 (4) Repealed by Session Laws 2005-276, s. 10.40A(1), effective July 1,
26 2005.
- 27 ~~(4a) The Department of Health and Human Services shall notify families or~~
28 ~~guardians of affected residents of the right to request a penalty review~~
29 ~~committee review of the Department's penalty decision before the~~
30 ~~decision becomes final. Within 60 days of receipt of a request from a~~
31 ~~family member or guardian for review of the Department's penalty~~
32 ~~decision, the penalty review committee shall meet to conduct the~~
33 ~~review and shall inform the family member or guardian of the results~~
34 ~~of the review.~~
- 35 (4b) Prior to serving on the Committee, each member shall complete a
36 training program provided by the Department of Health and Human
37 Services that covers standards of care and applicable State and federal
38 laws and regulations governing facilities licensed under Chapter 131D
39 and Chapter 131E of the General Statutes.
- 40 (5) Each member of the Committee shall serve a term of two years. The
41 initial terms of the members shall commence on August 3, 1989. The
42 Secretary shall fill all vacancies. Unexcused absences from three
43 consecutive meetings constitute resignation from the Committee.
- 44 (6) The Committee shall be cochaired by:

- 1 a. One member of the Department outside of the Division of
2 Facility Services; and
3 b. One member who is not affiliated with the Department."
4 **SECTION 2.** This act becomes effective October 1, 2007.