

Nursing Homes Long a Sore Spot for State Regulators

Nursing home regulation has gotten a great deal of attention in recent years, but it isn't the first time reformers have focused on how the state polices residential care provided its frailest citizens. In response to public pressure for reforms, the legislature in 1978 passed the Nursing Home Patients' Bill of Rights.¹ The statute, which spells out 15 different rights for nursing home patients, forms the bedrock of the state's regulatory system.

But a scant three years after the bill of rights was enacted, State Auditor Ed Renfrow issued a scathing review of how nursing home regulations were enforced. Renfrow's audit pointed to general leniency on the part of the state and a problem with homes breaking the same rules over and over again. "We noticed a definite pattern where nursing homes would be cited for a deficiency during the annual survey," says the audit report.² "The deficiency would be noted as corrected on a follow-up visit, but in the next annual survey the same deficiency would be cited again."

Renfrow cited 11 homes as particularly prone to recurring problems, and the names of the homes were later released to the media. At least one of these homes, St. James Nursing Center in Guilford County, was still having problems a decade later. Now named Americas Health, the home ranked fifth in total amount of penalties assessed during the three years and seven months covered by the Center study. It was sold in 1990 under threat of closure after being penalized for such violations as failure to treat bedsores and to provide patients with proper nutrition.

More recently, a Hertford County jury awarded \$15 million to the estate of a man who got too little pain medication for prostate cancer while a patient at Guardian Care of Ahoskie.³ Henry James died in June 1987, but his suffering was intensified by a nurse's decision to substitute Darvocet for the more powerful morphine his doctors prescribed.

Horrified family members complained to state regulators and eventually filed suit.⁴ Hillhaven Corp. of Tacoma, Wash., the home's owner, appealed the decision but later settled out of court for an undisclosed amount. Kathy McMahon, administrator at Guardian Care, notes that James' family "never sued the doctor who was responsible for the orders governing the patient's care." She says that James' physician gave nurses discretion about how much pain medication to administer. Hillhaven Corp. is now pursuing claims against the physician as the person responsible for the patient.

In another recent case that troubled nursing home advocates, Hillhaven-Orange Nursing Center in Durham was fined only \$250 after maggots were discovered in a resident's vagina. The fine is the lowest allowed for a Type A violation, which must involve "substantial risk that death or serious harm to a resident will occur or where such harm has occurred."

Rita Carter, a former administrator at Hillhaven-Orange and now at another Hillhaven facility, says state regulators never proved there were organisms in the resident's vagina or that there was risk of death or serious harm to the patient. Hillhaven-Orange garnered \$8,400 in fines in the three years and seven months studied by the Center—the second highest total of any North Carolina nursing home.

In January 1992, a case involving a maggot infestation again hit the news—this time at Britthaven of Wrightsville nursing home. New Hanover County social workers lodged a number of complaints against the home, one of them that the home failed to treat a bedsore on a resident's foot, which became infested with maggots and later had to be amputated.⁵ The home was later inspected by the state but not penalized. A state inspector said the allegations were "blown out of proportion."⁶

Problems came to a head in February 1992 at Americas Health Care in Cumberland County.

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The federal Health Care Financing Agency cut the home's Medicaid certification and the state Licensure Section began proceedings to revoke its license. A January inspection found a range

of problems, including patients with infected bedsores and patients lying on soiled bed linens. The facility ranked fourth in total amount fined in the Center study, at \$8,365.

— Mike McLaughlin

FOOTNOTES

¹ G.S. 131E-117.

² Ed Renfrow, "State Administration and Regulation of Nursing Homes," Operational Audit, Department of State Auditor, April 1981, p. 43.

³ Tinker Ready, "Nursing Home is Fined—\$15 Million Award Largest Ever in N.C.," *The News and Observer* of Raleigh, Nov. 27, 1990, p. 1B.

⁴ Anne C. Roark, "One Man's Pain Brings Verdict on

Nursing Home," *The News and Observer* of Raleigh, Dec. 12, 1991, p. 10B.

⁵ The Associated Press, "Agency Alleges Neglect at New Hanover County Nursing Home," *The News and Observer* of Raleigh, Jan. 28, 1992, p. 6B.

⁶ Tinker Ready, "'Pure Negligence' Blamed for Lost Leg" *The News and Observer* of Raleigh, March 22, 1992, p. 1A.

Table 3. Nursing Homes in North Carolina Receiving the Highest Dollar Amount in Fines, Jan. 1988–July 1991*

Nursing Home	County	Rank by \$	Total Penalized	Number of Fines	Avg. Fine
Royal Crest Health Center (formerly Autumnfield)	Gaston	1	\$8,450	16	\$528.12
Hillhaven-Orange	Orange	2	8,400	29	289.65
Jolene's Nursing (now Brightmoor)	Rowan	3	8,395	27	310.92
Americas Health Care	Cumberland	4	8,365	23	363.69
St. James Nursing (now Americas Health)	Guilford	5	8,000	29	275.86
Louisburg Nursing Center	Franklin	6	7,830	34	230.29
High Point Care Center	Forsyth	7	7,700	17	452.94
Autumnfield of Lowell (now Royal Crest Health Care Center)	Gaston	8	5,200	7	742.85
Medical Park Nursing	Guilford	9	4,765	19	250.78
Blue Ridge Manor	Wake	10	4,700	16	293.75
Total			\$71,805**	217	

*Includes fines assessed by the Licensure Office and recommended by Penalty Review Committee through July 1991. Figures are not adjusted for results of any appeals because of the difficulty of tracking the results of individual cases.

**This figure represents 39.3 percent of all fines recommended against the 290 homes for the three-and-a-half year period analyzed by the Center.

Table by Paul Barringer, Center intern.