



House of Representatives

File No. 801

General Assembly

January Session, 2005

(Reprint of File No. 467)

Substitute House Bill No. 6715
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2005

AN ACT CONCERNING STRIKE CONTINGENCY PLANS FOR HEALTH CARE INSTITUTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-497 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) [Any] Each institution shall, upon receipt of a notice of intention
4 to strike by a labor organization representing the employees of such
5 institution, in accordance with the provisions of the National Labor
6 Relations Act, 29 USC 158, [immediately] file a strike contingency plan
7 with the commissioner not later than five days before the date
8 indicated for the strike. [The commissioner shall adopt regulations, in
9 accordance with the provisions of chapter 54, to establish requirements
10 for such plan.]

11 (b) The commissioner may issue a summary order to any nursing
12 home facility, as defined in section 19a-521, that fails to file a strike
13 contingency plan that complies with the provisions of this section and
14 the regulations adopted by the commissioner pursuant to this section

15 within the specified time period. Such order shall require the nursing
16 home facility to immediately file a strike contingency plan that
17 complies with the provisions of this section and the regulations
18 adopted by the commissioner pursuant to this section.

19 (c) Any nursing home facility that is in noncompliance with this
20 section shall be subject to a civil penalty of not more than ten thousand
21 dollars for each day of noncompliance.

22 (d) (1) If the commissioner determines that a nursing home facility is
23 in noncompliance with this section or the regulations adopted
24 pursuant to this section, for which a civil penalty is authorized by
25 subsection (c) of this section, the commissioner may send to an
26 authorized officer or agent of the nursing home facility, by certified
27 mail, return receipt requested, or personally serve upon such officer or
28 agent, a notice that includes: (1) A reference to this section or the
29 section or sections of the regulations involved; (2) a short and plain
30 statement of the matters asserted or charged; (3) a statement of the
31 maximum civil penalty that may be imposed for such noncompliance;
32 and (4) a statement of the party's right to request a hearing to contest
33 the imposition of the civil penalty.

34 (2) A nursing home facility may make written application for a
35 hearing to contest the imposition of a civil penalty pursuant to this
36 section not later than twenty days after the date such notice is mailed
37 or served. All hearings under this section shall be conducted in
38 accordance with the provisions of chapter 54. If a nursing home facility
39 fails to request a hearing or fails to appear at the hearing or if, after the
40 hearing, the commissioner finds that the nursing home facility is in
41 noncompliance, the commissioner may, in the commissioner's
42 discretion, order that a civil penalty be imposed that is not greater than
43 the penalty stated in the notice. The commissioner shall send a copy of
44 any order issued pursuant to this subsection by certified mail, return
45 receipt requested, to the nursing home facility named in such order.

46 (e) The commissioner shall adopt regulations, in accordance with

47 the provisions of chapter 54: (1) Establishing requirements for a strike
 48 contingency plan, which shall include, but not be limited to, a
 49 requirement that the plan contain documentation that the institution
 50 has arranged for adequate staffing and security, food, pharmaceuticals
 51 and other essential supplies and services necessary to meet the needs
 52 of the patient population served by the institution in the event of a
 53 strike; and (2) for purposes of the imposition of a civil penalty upon a
 54 nursing home facility pursuant to subsections (c) and (d) of this
 55 section.

56 (f) Such plan shall be deemed a statement of strategy or negotiation
 57 with respect to collective bargaining for the purpose of subdivision (9)
 58 of subsection (b) of section 1-210.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	19a-497

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Public Health, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

A revenue gain to the state would ensue to the extent that civil penalties of up to \$10,000 per day are assessed on nursing homes failing to file strike contingency plans in accordance with the bill’s provisions or state regulation.

It is expected that the Department of Public Health (DPH) will be able to adopt the required regulations, serve notice upon noncompliant facilities and participate in any resulting hearings within its anticipated budgetary resources.

House “A” clarifies the scope of regulations to be adopted by the DPH and has no associated fiscal impact.

OLR Bill Analysis

sHB 6715 (as amended by House "A")*

AN ACT CONCERNING STRIKE CONTINGENCY PLANS FOR HEALTH CARE INSTITUTIONS**SUMMARY:**

By law, a health care institution notified by a labor organization representing its employees of its intention to strike must file a strike contingency plan with the health commissioner. This bill requires the plan to be filed no later than five days before the scheduled strike, rather than immediately after receiving a strike notice.

The bill allows the Department of Public Health (DPH) commissioner to issue a summary order to any nursing home failing to file a contingency plan that complies with the bill within the specified time period. The order must require the nursing home to immediately file a plan complying with the bill and regulations adopted by DPH. A noncomplying nursing home is subject to a civil penalty of up to \$10,000 for each day of noncompliance.

The bill requires the DPH commissioner to adopt regulations (1) establishing requirements for a strike contingency plan, which must include a requirement that the plan contain documentation that the institution has arranged for adequate staffing and security, food, pharmaceuticals, and other essential supplies and services necessary to meet patients' needs if there is a strike and (2) for imposing the civil penalty upon a nursing facility.

*House Amendment "A" specifies that the regulations adopted by DPH (1) require that the strike contingency plan address essential supplies as well as services, and (2) impose a civil penalty on a nursing home facility.

EFFECTIVE DATE: October 1, 2005

NONCOMPLIANCE BY NURSING HOME AND HEARING REQUEST

Under the bill, if the DPH commissioner determines that a nursing home is not in compliance with the contingency plan provisions and regulations, he can send a notice, by certified mail, return receipt requested, to an authorized officer or agent of the home. The notice must include (1) a reference to the section of the bill or regulation involved, (2) a short and plain statement of the matters asserted or charged, (3) a statement of the maximum civil penalty that can be imposed for noncompliance, and (4) a statement that the party has a right to request a hearing to contest the civil penalty.

The bill allows a nursing home to contest the civil penalty within 20 days after the notice is mailed or served. All hearings must be conducted according to the Uniform Administrative Procedure Act. If the nursing home fails to request a hearing or does not appear at one, or if, after the hearing, DPH finds that the facility is in noncompliance, DPH can, in its discretion, order a civil penalty imposed up to the penalty amount stated in the notice. DPH must send a copy of the order by certified mail, return receipt requested, to the facility.

BACKGROUND

Health Care Institution

“Health care institution” includes hospitals, residential care homes, health care facilities for the handicapped, nursing homes, rest homes, home health care agencies, homemaker-home health aide agencies, mental health facilities, substance abuse treatment facilities, outpatient surgical facilities, infirmaries operated by educational institutions, facilities providing services for the diagnosis and treatment of human health conditions, and residential facilities for the mentally retarded.

Legislative History

The House referred the bill (File 467) to the Judiciary, Labor and Public Employees, and Human Services committees, which reported the bill favorably on April 29, May 5, and May 17, respectively.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 31 Nay 0

Labor and Public Employees Committee

Joint Favorable Report
Yea 10 Nay 3

Human Services Committee

Joint Favorable Report
Yea 15 Nay 0