

Bill Establishing Long-Term Care Standards Passes Senate Committee Despite Funding Concerns

The Senate Health Committee greenlit Bill 36-0003, which sets mandatory service standards and resident rights for nursing and assisted living facilities, amid concerns over cost, staffing, and unfunded mandates flagged by DHS and lawmakers alike.

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Despite some concerns over funding for the mandates contained within Bill 36-0003, the Committee on Health, Hospitals, and Human Services voted in favor of the proposed legislation during Monday’s meeting.

Discussion on the bill, sponsored by Senator Angel Bolques Jr., was the first order of business. The legislation in question would “establish the services that nursing homes and assisted living

facilities are required to provide.” It also establishes limitations on financial charges, requirements for visitation, and the rights of residents of such facilities.

The bill “codifies critical resident protections already reflected in federal law under Medicare and Medicaid standards,” explained Bolques. It prohibits facilities from “conditioning admission on prepayment for services covered by Medicaid or Medicare” and ensures that individuals are not discriminated against based on income. According to the lawmaker, the bill requires that “facilities’ policies must be made public and accessible and reviewed annually and submitted to the V.I. Department of Human Services for review and oversight.”

“No Virgin Islander should be denied care or suffer diminished quality of life due to the financial hardship or lack of representation or unclear policies,” declared Mr. Bolques, urging the support of his colleagues.

The Department of Human Services, through its assistant commissioner Taetia Phillips-Dorsett, expressed support for the bill’s intent. DHS is responsible for the administration of nursing homes and assisted living facilities. Ms. Phillips-Dorsett told lawmakers that while the Herbert Grigg and Queen Louise Homes for the Aged are not certified by the Centers for Medicare and Medicaid Services (CMS), DHS already complies with expectations. Therefore, the legislation “reinforces and extends practices that are already central to the department’s mission and model of care.”

Nonetheless, DHS provided recommendations to “enhance clarity, inclusivity and practical implementation” of the proposed measure. Among them was an emphasis on including “adults with disabilities” to the bill, as these individuals also access the services of these homes. DHS also recommended mandating “assistance with financial aid applications” by the nursing homes, as well as a “phased implementation period of 12 months post-enactment.”

The DHS is willing to provide technical support, but encouraged the bill’s sponsor to consider delegating oversight responsibility to the Department of Health. This would ensure that DHS is not “self-regulating.”

Troy Schuster, Virgin Islands State Director for the American Association of Retired Persons, was also largely supportive. “This bill signifies a monumental turning point in long-term care policy for the territory,” said Mr. Schuster. He, too, offered some recommendations, including a focus on transparent licensing and oversight.

Several amendments to the bill were already prepared and a new version was presented before Monday’s meeting ended.

Still, Senators Alma Francis Heyliger and Hubert Frederick were concerned with the cost of fulfilling the bill’s mandate. According to AARP’s Mr. Schuster, the territory’s existing nursing homes are “struggling with what they have.” He told lawmakers that “if they are properly funded by the government of the Virgin Islands, they can increase and improve the standard of care to reach CMS standards.”

“It’s one thing for us to say that we want great service for the people and our seniors, but we as a body have to actually fund these things,” Senator Francis Heyliger noted. “Before this even goes anywhere, we have to make sure where the funding [is] going to come from to guarantee all these additional things that I see.”

A major milestone for CMS certification is adequate staffing. The patient-staff ratio is currently 10:1, but should ideally be 7:1. Therefore, DHS will need to employ more staff members to

potentially attain certification.

Responding to his colleagues' concerns, Bolques assured that the bill "does not create new financial mandates."

Still, Senator Hubert Frederick maintained that "we're considering adding more requirements. We don't know what it's going to cost us. When do we ever sit down and start running the numbers to see if it makes sense financially to move forward?"

For DHS's Phillips-Dorsett, however, "there should be no price tag on guaranteeing and ensuring that you're providing quality of care to the most vulnerable population." She told Sen. Frederick that the bill is an "interim step" as DHS continues to employ CMS standards.

Senator Frederick nevertheless stood his ground. "Right now we could barely afford what we have. We're not even billing these patients as we should. So how is this going to be a successful project in any event in the immediate term or long term? We could barely take care of the few patients that we have. And we're talking about increasing care without any financial consideration. This is a recipe for problems.....We tend to just throw things out there, and we don't consider the cost until afterwards, and then we're stuck trying to find money that we don't have."

"We have appropriated millions of dollars of local funding for all manners of things," countered Senator Bolques. He insisted that the amount of money it would take to fund the bill's requirements is "peanuts in comparison to some of those appropriations."

Senators Francis Heyliger and Frederick would eventually acquiesce and vote in favor of the bill. Still, despite her support of the measure, Ms. Phillips-Dorsett reminded the Legislature that "unfunded mandates are difficult for us to digest as an agency."