

The Committee on Health, Hospitals, and Human Services

**The Honorable Senator Ray Fonseca
Chairman of the Committee**

**Bill No. 36-0048
An Act amending Title 3, Virgin Islands Code, Chapter 25, Section
590b, relating to the Caregivers Leave Act**

**Sponsored by:
Senator Novelle E. Francis Jr.**

**Testimony By:
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**Governor Juan F. Luis Hospital and Medical Center
-and-
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Good afternoon, Honorable Senator Ray Fonseca, Chairman of the Committee on Health, Hospitals, and Human Services; esteemed Senators of the 36th Legislature of the U.S. Virgin Islands; the dedicated staff of Governor Juan F. Luis Hospital and Medical Center and Schneider Regional Medical Center; and members of the listening and viewing audience.

My name is Darlene Baptiste, Chief Executive Officer of Governor Juan F. Luis Hospital and Medical Center (JFL) and Schneider Regional Medical Center (SRMC). Today I am joined by Attorney Julie Bebermen, JFL Legal Counsel, who is here to support this testimony and help address any questions. Thank you for the opportunity to provide testimony on Bill No. 36-0048, relating to medical malpractice reform in the Virgin Islands.

JFL and SRMC supports the Proposed Amendment in the Nature of a Substitute. We believe this legislation represents an important and necessary step toward reforming the Territory's medical malpractice system. However, we also recognize that this bill is a first step. There remains significant work to be done to develop a medical malpractice framework that appropriately protects patients, provides fairness and due process for healthcare professionals, and supports the Territory's ability to recruit and retain the physicians and specialists our community needs.

Meaningful medical malpractice reform must strike an appropriate balance. Patients who suffer harm as a result of medical malpractice must continue to have meaningful avenues for relief and appropriate remedies. At the same time, healthcare professionals should have reasonable safeguards against claims that lack sufficient grounds or a good-faith basis.

For the Virgin Islands, this is more than a legal issue. It is directly connected to access to healthcare.

As an island community with a limited healthcare workforce, we already face significant challenges in recruiting and retaining physicians, particularly specialists and subspecialists. The Territory must compete with hospitals and health systems across the nation for these professionals. Our medical malpractice environment is one of several factors that can influence a physician's decision about where to establish or continue a practice.

When we cannot recruit or retain the physicians we need, the impact is ultimately felt by our patients. Gaps in specialty coverage limit the services that can be provided locally and can result in patients having to be transferred off-island to receive care that is unavailable in the Territory.

There is also an economic consequence for our healthcare system and the Territory. When patients must leave the Virgin Islands to obtain services that could otherwise be provided locally with the appropriate physician

and specialty capacity, the healthcare revenue associated with those services also leaves the Territory. Those are resources that could otherwise remain within our healthcare system.

For that reason, our ability to recruit and retain physicians is not simply a workforce concern. It is an access-to-care issue, a patient-care issue, and an economic issue.

Bill No. 36-0048 begins to address one component of that larger challenge.

Medical malpractice claims can have significant professional consequences for physicians and other healthcare providers. Malpractice actions may have to be disclosed during credentialing, privileging, licensing, and employment processes, and certain malpractice information is reportable to the National Practitioner Data Bank. Even when a claim is ultimately dismissed, litigation can take years to resolve, during which time the healthcare professional may continue to experience professional, administrative, and financial consequences.

The proposed Affirmation of Merit is therefore an important threshold measure. Requiring an appropriately qualified expert to determine that there are reasonable grounds and a good-faith basis for maintaining a medical malpractice action can help ensure that a claim has an appropriate professional basis before proceeding through prolonged litigation.

Importantly, this requirement does not eliminate a patient's ability to pursue a legitimate malpractice claim. Rather, it seeks to establish an appropriate threshold that protects access to the legal process while providing a reasonable safeguard against claims that lack sufficient merit.

JFL and SRMC also support the proposed modifications to the Medical Malpractice Action Review Committee. The Committee has an important role in the review and screening of medical malpractice claims, and a functional and timely review process can benefit patients and healthcare professionals alike.

However, we should not consider the passage of Bill No. 36-0048 the completion of medical malpractice reform in the Virgin Islands. It should be viewed as the beginning of a broader effort.

Additional work will be necessary to examine the Territory's overall medical malpractice framework and determine what further reforms are appropriate to ensure timely resolution of claims, protect the rights of patients, provide fairness to healthcare professionals, strengthen the availability and affordability of professional liability coverage, and improve our ability to recruit and retain physicians.

The ultimate goal must be a medical malpractice system that supports accountability and patient protection while also helping create a healthcare environment in which qualified physicians want to practice and remain.

Bill No. 36-0048 is an important step in that direction, but it cannot be the last step. We encourage the Legislature and all healthcare stakeholders to continue the work necessary to achieve comprehensive and meaningful medical malpractice reform.

Thank you, Chairman Fonseca and members of the Committee, for the opportunity to provide testimony on this important matter. JFL and SRMC stand ready to work with the Legislature and our healthcare partners to continue this important work and strengthen healthcare for the people of the Virgin Islands.

Attorney Beberman and I remain available to answer any questions you may have.