

**PRESENTATION OF ATTORNEY GENERAL  
GORDON C. RHEA  
DEPARTMENT OF JUSTICE’S TESTIMONY  
THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS  
IN RE: BILL NO. 36-0003  
COMMITTEE ON HEALTH, HOSPITALS AND HUMAN SERVICES  
JULY 7, 2025**

Good afternoon, Chairman Ray Fonseca, Committee on Health, Hospitals and Human Services members, other Senators, Legislative staff, and the listening and viewing audiences. I am Attorney General Gordon Rhea. It is an honor and privilege to appear before you this morning.

The Department of Justice appreciates the opportunity to comment on Bill No. 36-0003. The Department of Justice has completed a preliminary review of Bill No. 36-0003 and offers the following comments.

Bill No. 36-0003 seeks to amend title 19 of the Virgin Islands Code, by adding a new Part VIII, Nursing Homes and Related Health Care Facilities. A new chapter 76, if approved, would cover nursing homes and assisted living facilities. The stated purpose of Bill No. 36-0003 is “to establish the services that nursing homes and assisted living facilities are required to provide, limitations on financial charges, requirements for visitation and the rights of a resident,” to ensure seniors in the Virgin Islands have “a right to a dignified existence with access to necessary

facilities for their care” through the development of “the necessary policies to ensure that 5 seniors receive adequate care and support.”

According to the National Council on Aging, 1 in 5 Americans aged 60 and older, reported abuse during the COVID-19 pandemic.<sup>1</sup> These are the cases authorities know about. “Another study estimated that only 1 in 24 cases of abuse are reported to authorities.”<sup>2</sup> Factors such as age, disability and social isolation may make residents of a nursing home more susceptible to abuse. The Centers for Disease Control & Prevention defines elder abuse as “an intentional act or failure to act that causes or creates a risk of harm to an older adult.”<sup>3</sup> Abuse can include physical, sexual, emotional, psychological or financial abuse, and neglect.

Federally, the Centers for Medicare and Medicaid Services or CMS enforces the laws and regulations to ensure the health, safety and quality of care for residents of nursing homes participating in Medicare and Medicaid programs. These nursing homes must comply with federal requirements related to the rights of residents, quality of care, assessments, care plans, health care, dietary services, staffing and infection control, among others. CMS shares this responsibility with states and territories on the local level; as such, territorial laws should complement federal laws.

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<sup>1</sup> See <https://www.ncoa.org/article/get-the-facts-on-elder-abuse/> (last viewed 7/2/2025)

<sup>2</sup> *Id.*

<sup>3</sup> See <https://www.cdc.gov/elder-abuse/about/index.html> (last viewed 7/2/2025)

There are severe consequences for nursing homes found guilty of violating federal and local laws related to nursing homes, including abuse. Consequences can include loss of patients, loss of Medicare and Medicaid funding, loss of other funding, fines, restitution, suspension of licenses and closure.

Additionally, some states make it a criminal violation for an individual to abuse a resident of a nursing home. Staff members who physically abuse patients may be charged with assault, battery, criminal neglect or a specific law aimed at preventing elder abuse. In California, anyone found guilty of “willfully or repeatedly” violating the law is guilty of a misdemeanor and can be punished by a fine up to \$2,500, imprisonment for up to 180 days or both.<sup>4</sup>

Because states and territories have the autonomy to enact their own laws to protect seniors from certain individuals and residential facilities, the scope and application of these laws vary greatly. The Department of Justice supports Bill No. 36-0003, in principle. With that said, the following should be considered as this Committee reviews Bill No. 36-0003:

First, Bill No. 36-003 does not specifically designate which GVI agency will have oversight of the territory’s nursing homes and assisted living facilities. This agency should be responsible for conducting on-site surveys of nursing homes and

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<sup>4</sup> See Cal. Health & Saf. Code § 1290(c)

assisted living facilities and reporting the results to CMS to determine whether they are complying with federal requirements. In addition to working with the federal government to enforce regulations and ensure compliance, the local agency can create additional rules and require more frequent inspections. I would recommend that the Virgin Islands Department of Health be memorialized as the GVI agency charged with oversight of the territory's nursing homes and assisted living facilities.

Additionally, Bill No. 36-0003 does not include a system for reporting violations of the proposed legislation. A reporting mechanism will help protect seniors by identifying and addressing violations, leading to earlier interventions, greater data collection, better victim support, more accountability and public awareness. I believe the Department of Health would be the appropriate local agency to receive, investigate and manage claims of violations of the proposed legislation.

The decision to codify the services that nursing homes and assisted living facilities are required to provide, limitations on financial charges, requirements for visitation and the rights of residents is a policy decision, not a legal one. However, should this Legislature decide to approve this measure, the Virgin Islands Department of Justice stands ready to enforce the law and prosecute violations.

I thank the Committee for allowing the Department of Justice to testify on Bill No. 36-0003. This concludes my formal remarks. I respectfully welcome any questions this body may have.