

**BILL NO. 36-0003**

**Thirty-Sixth Legislature of the Virgin Islands**

**February 27, 2025**

An Act amending title 19 Virgin Islands Code relating to nursing homes and assisted living facilities by adding a new chapter 76 to establish the services that nursing homes and assisted living facilities are required to provide; establishing limitations on financial charges, requirements for visitation, and the rights of a resident

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**PROPOSED BY:** Senator Angel L. Bolques, Jr.

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**WHEREAS** the seniors in the Virgin Islands have a right to a dignified existence with access to the necessary facilities for their care; and

**WHEREAS,** without adequate senior assisted living facilities in the Virgin Islands, seniors will not receive necessary care and treatment in the territory; and

**WHEREAS,** the Virgin Islands must develop the necessary policies to ensure that seniors receive adequate care and support; Now, Therefore,

***Be it enacted by the Legislature of the Virgin Islands:***

**SECTION 1.** Title 19 Virgin Islands Code is amended by adding the following Part VIII:

**“Part VIII. Nursing homes and related health care facilities**

**Chapter 76. Nursing homes and assisted living facilities**

**§ 4120. Definitions.**

As used in this chapter, unless it is otherwise provided or the context requires a different construction, application, or meaning—

(a) “Assisted Living Facility” means a facility providing residential accommodations for the elderly and the disabled who require assistance with activities of daily living as provided for in section 4121 (a)(2).

(b) “Facility” means either a nursing home or assisted living facility.

(c) “Nursing Home” means a facility providing residential accommodations and a high level of long-term continuous healthcare treatment for the elderly and the disabled.

(d) “Resident” means a person who is at least 60 years of age or older, or a person with a disability, who permanently resides at either a nursing home or assisted living facility.

**§ 4121. Services to be provided by a facility**

(a) (1) A facility must provide the necessary care and services, based on a comprehensive assessment of a resident and consistent with the resident's needs and choices, to ensure that a resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that such diminution was unavoidable. This includes a facility ensuring that:

(A) a resident is given the appropriate treatment and services to maintain or improve their ability to carry out the activities of daily living.

(B) the necessary services to maintain good nutrition, grooming, and personal and oral hygiene are given to a resident who is unable to carry out activities of daily living,

(2) A facility must provide care and services in accordance with paragraph (1) for the following activities of daily living:

(A) Hygiene—bathing, dressing, grooming, and oral care;

(B) Mobility—transfer and ambulation, including walking;

(C) Elimination—toileting;

(D) Dining—eating, including meals and snacks;

(E) Communication, including;

(i) Speech;

(ii) Language; and

(iii) Other functional communication systems.

(b) A facility must provide basic life support, including CPR, to a resident requiring such emergency care prior to the arrival of emergency medical personnel and subject to related physician orders and the resident's advance directives.

(c) A facility must provide an ongoing program to support residents in their choice of activities, both facility-sponsored group and individual activities and independent activities, designed to meet the interests of and support the physical, mental, and psychosocial well-being of each resident, encouraging both independence and interaction in the community.

#### **§ 4122. Facility charges and limitations**

(a) A facility may not exclude a resident based solely on the resident's income.

(b) A facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare.

(c) A facility may not charge a resident, during the course of a covered Medicare or Medicaid stay, for the following categories of items and services:

(1) Nursing services;

(2) Food and Nutrition services;

(3) An activities program;

(4) Room/bed maintenance services;

(5) Routine personal hygiene items and services including: hair hygiene supplies; comb; brush; bath soap; disinfecting soaps or specialized cleansing agents when indicated to treat special skin problems or to fight infection; razor; shaving cream; toothbrush; toothpaste; denture adhesive; denture cleaner; dental floss; moisturizing lotion; tissues; cotton balls; cotton swabs; deodorant; incontinence care and supplies; sanitary napkins and related supplies; towels; washcloths; hospital gowns; over the counter drugs; hair and nail hygiene services; bathing assistance; and basic personal laundry;

(6) Medically-related social services; and

(7) Hospice services elected by the resident and paid for under the Medicare Hospice Benefit or paid for by Medicaid.

(d) A facility may charge residents for the following items and services if payment is not made by Medicare or Medicaid:

(1) Telephone, including a cellular phone;

(2) Television/radio, personal computer or other electronic device for personal use;

(3) Personal comfort items, including smoking materials, notions and novelties, and confections;

(4) Cosmetic and grooming items and services in excess of those for which payment is made under Medicaid or Medicare;

(5) Personal clothing;

(6) Personal reading material;

(7) Gifts purchased on behalf of a resident; and

(8) Cost to participate in social events and entertainment outside the scope of the activities program.

(e) A facility must not charge for special foods and meals, including medically prescribed dietary supplements, ordered by the resident's physician, physician assistant, nurse practitioner, or clinical nurse specialist.

(f) A facility must inform, orally and in writing, a resident requesting an item or service for which there is a charge, that there will be a charge for the item or service and the amount of the charge.

#### **§ 4123. Facility requirements for visitation**

(a) A facility must meet the following requirements regarding visitors of residents:

(1) Inform each resident, or resident's representative as the case may be, of the resident's visitation rights and the facility's policies and procedures including any clinical or safety restriction or limitation on such rights which are consistent with the requirements of this section; the reasons for the restriction or limitation; and to whom the restrictions apply.

(2) Inform each resident of the right, subject to the resident's consent which consent may be withdrawn at any time by the resident, to receive the visitors whom the resident designates including a spouse; a domestic partner; a family member; or a friend; and

(3) Ensure that all visitors enjoy full and equal visitation privileges consistent with resident's preferences.

#### **§ 4124. Rights of a Resident; responsibilities of a facility**

(a) A resident has the right to organize and participate in resident groups in the facility.

(b) A facility must provide a resident or family group with private space and must take reasonable steps to make residents and family members aware of upcoming meetings in a timely manner.

(c) A resident has the right to participate in other activities including social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(d) Each resident must receive, and the facility must provide, the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, consistent with the resident's comprehensive assessment and plan of care.

(e) A resident has a right to manage his or her financial affairs. This includes the right to know, in advance, what charges a facility may impose against a resident's personal funds.

(f) In the case of a resident who has not been adjudged incompetent by a court of competent jurisdiction, the resident has the right to designate a representative.

(1) The resident's representative has the right to exercise the resident's rights to the extent those rights are delegated to the resident's representative.

(2) The resident retains the right to exercise rights not delegated to a resident's representative, including the right to revoke a delegation of rights.

(3) The facility must treat the decisions of a resident's representative as the decisions of the resident to the extent required by the court or delegated by the resident, in accordance with applicable law.

(g) Every resident has the right to exercise his or her rights as a resident of a facility.

(h) A resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights and to be supported by a facility in the exercise of those rights as required under this section.

(i) A facility must ensure that residents can exercise their rights without interference, coercion, discrimination, or reprisal from the facility.”

### **BILL SUMMARY**

This bill amends title 19 Virgin Islands Code by establishing 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.

**BR25-0018/February 21, 2025/GC**