



**TESTIMONY BEFORE THE
HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE**

Senate Bill 665: Assisted Living Programs - Unlicensed Programs - Resident Abuse, Exploitation, and
Neglect (The Senator Delores Kelley Residents of Unlicensed Programs Protection Act)

March 30, 2023

Written Testimony Only

POSITION: FAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support for Senate Bill 665. HFAM represents skilled nursing centers and assisted living communities in Maryland, as well as associate businesses that offer products and services to healthcare providers. HFAM members provide services and employ individuals in nearly every jurisdiction of the state. Our skilled nursing members provide nearly 4 million days of care across all payer sources annually, including more than 2.3 million days of Medicaid care.

Senate Bill 665 requires the Maryland Department of Health, or the Office of Health Care Quality, to investigate whether residents in an assisted living program have been subject to neglect, exploitation, or abuse if the assisted living program is operating without a license; subjects certain assisted living programs operating without a license to immediate prosecution under a certain provision of law under certain circumstances.

The intent of this legislation is to address unlicensed assisted living facilities and close a loophole that currently makes prosecuting them difficult.

Currently, if an individual is found to be operating an unlicensed assisted living facility, they have a 30-day grace period to apply for a license and they cannot be prosecuted for operating an unlicensed facility while the application for licensure is pending. This is designed to encourage unlicensed facilities to come in to compliance rather than shut them down, due to a need for assisted living services in Maryland.

However, the Office of Health Care Quality (OHCQ) does not have the authority to enter an unlicensed facility and those operators have little incentive to cooperate with any investigation. While abuse or neglect allegations can be criminally investigated, that process takes time. During that time, the unlicensed facility may continue to operate while their license is pending.

This legislation will eliminate the 30-day grace period for unlicensed assisted living facilities where OHCQ finds a credible allegation of abuse, neglect, or exploitation. Owners of these facilities found to be operating in this manner will be subject to immediate prosecution, as well as prevented from continuing operations.

If owners of unlicensed facilities refuse to cooperate with OHCQ during investigations, they would likewise lose access to the 30-day grace period and be subject to prosecution.

Any unlicensed assisted living facility that is not suspected of abuse, or those where an investigation finds the claims of abuse unsubstantiated, will be allowed the 30-day period to apply for a license as currently provided.

It is critically important that we ensure the highest possible quality of care for all residents in assisted living facilities and ensure that owners of these facilities are operating in a way that respects the health, safety, and wellbeing of residents. Together, we have a shared goal of protecting of our older adult community and ensuring that their rights are respected.

For these reasons, we respectfully request a favorable report from the Committee on Senate Bill 665.

Submitted by:

Joseph DeMattos, Jr.

President and CEO

(410) 290-5132