

**Testimony of Sandra Mattavous-Frye Esq.,
People’s Counsel for the District of Columbia,
Before the
Council of the District of Columbia,
Committee on Business and Economic Development
On Bill B22-0353
“The Community Residential Facilities Third-Party Notice of Utility
Disconnection Requirement Act of 2017”**

Monday October 2, 2017

Good afternoon Chairman McDuffie, Councilmember(s), staff and members of the public joining us here today. For the record, I am Sandra Mattavous-Frye and I serve as the People’s Counsel of the District of Columbia. I am pleased to appear before you today to support Bill B22-0353, “The Community Residential Facilities (CRF) Third-Party Notice of Utility Disconnection Requirement Act of 2017.” Consistent with my commitment to zealously advocate, educate and empower consumers, we were able to bring together public and private stakeholders and unite regarding a dire public need.

Specifically, at one of OPC's quarterly social service stakeholder meetings, it was brought to our attention that currently there are 135 assisted living, community residence and nursing facilities in the District of Columbia, with according to the DC Department of Health, currently over 3,400 residents dependent on the care they provide.

The proposed bill includes a new mandate for agencies that manage community residential facilities to require the operators of said facilities to complete a third-party notification form that would require utility companies to provide the agencies with a copy of a termination notice in the event the account is scheduled for disconnection. I am pleased to report that the bill has been endorsed by utilities, government advocacy agencies and consumers alike, as a straightforward solution to a problem that unfortunately has posed a health and well-being threat to our most vulnerable consumers, who for no reason of their own, may lose life dependent utility service.

Background:

In February, 2017, the AARP Legal Counsel for the Elderly's Long Term Care Ombudsman program, which is mandated by both federal law and DC Law to advocate for residents of all long-term care facilities in the District, brought to the attention of OPC instances of vulnerable, often critically ill patients suffering the impact of utility

disconnection. As residents of these facilities, the consumers are not the customer of record on a utility account. Rather, the operators of the programs or facilities are in privity of contract with the utilities. Bills, payments, and disconnection notices are sent directly and exclusively to the account holders.

Research conducted by the District of Columbia Office of the Long Term Care Ombudsman indicates 105 of these enterprises are owned and operated by individual proprietors. Whether by error, mismanagement or other circumstance, the owners of some facilities often fall behind on utility payments and either cannot, or will not, pay outstanding utility bills and therefore become subject to service disconnection. Complicating matters, patients in these facilities have no idea of the impending cutoff, no recourse to arrange to keep service on, and no means to relocate on short notice. Likewise, the utilities have no way of identifying the facilities as medical service providers. Consequently, there have been instances of residents living in CRFs where the utility service had been disconnected. The residents are forced to live in these facilities without heat, light or other necessary amenities.

Obviously, action was necessary to ameliorate and provide a viable solution to the problem. OPC and the Ombudsman program representatives agreed that pursuing permanent legislation would be the most effective means of addressing the situation.

Accordingly, OPC's Litigation Services Division worked in conjunction with members of the Council to develop legislation to address this challenge. On June 27th, Councilmember Brandon Todd along with Co-Sponsor Councilmember Anita Bonds introduced B22-0353, "The Community Residential Facilities Third-Party Notice of Utility Disconnection Requirement Act of 2017."

This bill recognizes the responsibility of the District of Columbia to residents, who in many cases are receiving care at least partially funded under multiple District healthcare programs and the need for agencies with oversight to be notified when their clients' care may be compromised.

Goals of Bill 22-0353:

The goal of the CRF Third-Party Notice bill is to provide the Ombudsman Program and District government managing agencies of community residential facilities with notice of impending utility disconnections. It is important to note that this bill does not obligate the Ombudsman's office or the managing agencies financially. However, it provides them time to intervene with facility owner/operators, examine the status of the account, and if necessary, proceed to arrange alternative care for patients.

This bill benefits both the District government and utilities in that it better positions them to eliminate potentially life-threatening disconnections harming some of our most vulnerable residents. The recent flurry of hurricanes in Texas, Florida, and the Caribbean serve as a reminder that utility service is an essential service and nowhere more important than in care facilities. While natural disasters are unavoidable, it is incumbent upon us to do all that we can to avoid a **preventable** tragedy.

Amendments:

Since the original legislation was introduced, OPC and the other parties to the proposal including Legal Counsel for the Elderly (LCE), Pepco, WGL, DC Water, DC Department of Behavioral Health, and the DC Department of Health have met to iron-out several details needed to bolster the efficiency and effectiveness of the third-party notification program.

First, to ensure complete participation by the CRFs, the utility stakeholders have developed a Mandatory Enrollment proposal that makes participation in the third-party notice process a condition of the CRFs licensure under the managing agencies.

Second, to address the matter of account privacy, CRFs will not be automatically enrolled without their consent. Each managing agency

will provide all CRFs with enrollment forms for Pepco, WGL and DC Water. The CRF will complete the form and return it to the managing agency, at which point, the managing agency then returns the form to the utility and the utility enrolls the CRF into its notification program.

With these modest adjustments, I believe we have consensus among the parties and can operate the third-party notice program in the best interests of all stakeholders.

Conclusion

In closing:

Bill B22-0353 is a stakeholder win. It enhances the safety net for thousands of our vulnerable residents, enables District agencies to better manage care for their clients and assists utilities in providing reliable service while potentially reducing uncollectibles. The bill achieves all of this with little or no financial impact. In fact, it is likely that significant savings will result from the reduction in fees for disconnection and reconnection, reduced medical transport costs, patient care disruption, and patient care outcomes. Additional savings may be imbedded in utility and government operations processes.

Finally, Bill B22-0353 superbly demonstrates what government and NGO's can do in collaboration with the private sector to enhance and stimulate business and economic development. I submit passage of

this bill is a practical solution, cost effective and fundamentally just and humane, as we develop means to ensure the health and well-being of our most vulnerable residents. Thank you, I am available to respond to any questions that you may have.