

## Roberta DiMezza

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**From:** Deb Burton <deb@rielderinfo.com>  
**Sent:** Wednesday, February 18, 2026 12:22 PM  
**To:** Rep. McEntee, Carol Hagan; House Judiciary Committee; Rep. Potter, Brandon C.  
**Subject:** H7488 Testimony In Support  
**Attachments:** Testimony Supporting H7488.pdf; Key Takeaways for H7488 Chart.pdf

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Dear Chair McEntee and Honorable Committee Members,

Please accept the attached written testimony in support of H7488. I am submitting this testimony in my capacity as a member of the public and a Rhode Island resident.

I have watched the public hearing on this bill and listened carefully to the questions raised by Committee members. In the attached testimony, I have attempted to provide clarification and additional context regarding the legal standards discussed, including the intersection of federal regulations and Title 11 criminal law.

For identification purposes, my name is Deborah Burton, and I reside in Scituate, Rhode Island. While I serve as the Executive Director of RI Elder Info and have worked in health and human services for more than 30 years, this submission reflects my professional expertise and personal position on the bill.

Thank you for your leadership on issues affecting older adults and vulnerable Rhode Islanders. I respectfully urge the Committee's support of H7488.

Please let me know if any additional information would be helpful.

Sincerely,  
*Deborah Burton*



\*My working hours may not be your working hours. Please do not feel obligated to respond outside your normal work schedule.\*

**Testimony in Support of  
H7488- RELATING TO HEALTH AND SAFETY – ABUSE IN HEALTHCARE FACILITIES  
Deborah Burton, MS, North Scituate, Rhode Island**

February 13, 2026

The Honorable Carol Hagan McEntee, Chair  
House Committee on Judiciary  
State House, 82 Smith Street Providence, RI 02903  
via email: [Rep-McEntee@rilegislature.gov](mailto:Rep-McEntee@rilegislature.gov)  
via email: [HouseJudiciary@rilegislature.gov](mailto:HouseJudiciary@rilegislature.gov)

Dear Chair McEntee and Honorable Committee Members,

I am the Executive Director of RI Elder Info. I hold a Master of Science in Gerontology in the Management of Aging Services. I serve on Governor McKee’s Advisory Council on Older Adults and on the Advisory Councils for Older Adults for Congressmen Magaziner and Amo, am a member of the Gerontological Society of America and have been inducted into Sigma Phi Omega (SPO), the International Academic Honor and Professional Society. I have worked at the intersection of health, human services and advocacy for more than 30 years. I am testifying as a member of the public.

I respectfully urge your strong support for H7488. Older adults in licensed healthcare facilities deserve protection based on whether they are safe—not on whether someone claims they did not mean for harm to occur.

Federal regulations governing nursing facilities are clear that *intent* is not required.

Under 42 C.F.R. § 483.5: Definitions

“Abuse is the willful infliction of injury... Willful... means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.”

The federal definition explicitly states that “willful” does not require intent to cause injury.

The same regulation defines neglect as:

“the failure of the facility, its employees or service providers to provide goods and services... necessary to avoid physical harm, pain, mental anguish, or emotional distress.”

There is no requirement to prove intent in the federal definition of neglect.

**H7488 ensures that abuse and neglect in healthcare facilities are evaluated based on harm and risk—not on the subjective state of mind of the caregiver or operator.**

It is also important to distinguish between 42 U.S.C. § 3002(1), part of the Older Americans Act, which provides a broad elder abuse definition for community-based programs and elder justice activities, and 42 C.F.R. § 483.5, which governs nursing facility licensure, certification, and enforcement for providers participating in Medicare and Medicaid. The former establishes general policy definitions for service programs, while the latter sets standards tied directly to resident safety. **H7488 properly aligns Rhode Island’s statute with the regulatory framework applicable to licensed providers.**

The death of Germaine Morsilli due to neglect at Hillside Health Center led to reform under R.I. Gen. Laws Chapter 23-17.8, (“The Germain Morsilli Act”) and heightened scrutiny of abuse in healthcare

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facilities. Her case reminded Rhode Island that systemic failures—staffing breakdowns, inadequate oversight, financial mismanagement—can produce serious harm.

Abuse and neglect in institutional settings often stem from:

- Chronic understaffing
- Inadequate training
- Diversion or mismanagement of resources
- Failure to pay vendors for medical supplies
- Deferred maintenance

The intent may not be to harm residents. But when management decisions predictably result in residents going without adequate care, the harm is real. The law must allow regulators to act when harm or risk of harm exists—not only when malicious intent can be proven.

Rhode Island already applies harm-based standards in other protective systems:

- DCYF defines abuse and neglect based on whether a child’s health or welfare is harmed or threatened with harm.
- BHDDH regulations define abuse and neglect based on conduct and failure to provide necessary care—not subjective intent.

**H7488 brings consistency to the protection of vulnerable older adults in licensed healthcare facilities.**

Mandatory reporting requirements trigger police involvement when abuse or neglect is known or suspected. Under Title 11-Criminal Offenses, prosecution requires proof that a caregiver acted “willfully and knowingly.” That higher standard is appropriate where the burden of proof is beyond a reasonable doubt.

Regulatory oversight and criminal prosecution are parallel systems that serve different purposes:

- Regulatory law protects residents and preserves licensure standards.
- Criminal law punishes willful and knowing wrongdoing.

**H7488 does not change the criminal statute. Criminal liability under Title 11 remains intact.**

**In conclusion, H7488:**

- **Allows the Department of Health to act when harm occurs or necessary care is not provided.**
- **Prevents the absence of proven malicious intent from blocking protective action.**
- **Preserves criminal prosecution under Title 11.**
- **Aligns Rhode Island law with federal nursing home regulations and existing state protective standards.**

This is not a radical change. It is a consistency and resident protection measure. For these reasons, I respectfully urge you to support H7488.

Sincerely,



Deborah Burton, MS

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<b>Law / Citation</b>	<b>What It Governs</b>	<b>Definition Focus</b>	<b>Intent Requirement</b>	<b>Standard of Proof / Purpose</b>
<b>42 U.S.C. § 3002(1)</b> (Older Americans Act)	Broad federal elder justice and aging services programs	General definition of elder abuse for policy and community-based programs	Refers to knowing conduct in defining abuse	Establishes programmatic and policy definitions; not a licensure enforcement standard
<b>42 C.F.R. § 483.5</b> (Federal Nursing Home Regulations)	Medicare/Medicaid certified nursing facilities	Abuse = willful infliction of injury; Neglect = failure to provide necessary goods and services	“Willful” means deliberate conduct — does <b>not</b> require intent to inflict harm	Regulatory enforcement standard tied to licensure, certification, fines, and facility compliance
<b>R.I. Gen. Laws § 11-5-12</b> (Title 11 Criminal Offenses)	Criminal prosecution of abuse, neglect, or exploitation of adults	Focuses on conduct of person responsible for care	Requires proof that conduct was “willfully and knowingly” committed	Criminal standard; requires proof beyond a reasonable doubt; may result in fines or imprisonment

**Key Takeaways for H7488**

- **H7488 aligns Rhode Island healthcare facility oversight with 42 C.F.R. § 483.5.**
- **Criminal law remains unchanged.**  
Title 11 still requires proof of willful and knowing conduct.
- **Regulatory enforcement and criminal prosecution are parallel systems:**
  - Regulatory law protects residents and preserves licensure standards.
  - Criminal law punishes willful and knowing wrongdoing.
- **Federal nursing home regulations do not require malicious intent.**  
A deliberate failure to provide necessary care can result in citation even without intent to harm.
- **Mandatory reporting remains in place.**  
Known or suspected abuse must be reported to law enforcement, triggering criminal investigation when appropriate.