

# **DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION**

## **ANNUAL REPORT FY 2020**

**(July 1, 2019 - June 30, 2020)**

Additional copies of the report are available from the Commission at: 2540 Wrangle Hill Rd  
Suite 223 Bear, DE 19701 or by visiting: <http://courts.delaware.gov/AOC/?dnhrqac.htm>.  
The Commission's phone number is (302) 836-2133.

# **DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION**

## **Members of the Commission as of December 15, 2019**

Elisabeth A. Furber - Chair

Lieutenant Governor Bethany Hall-Long

The Honorable Kimberly Williams

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**Delaware Nursing Home Residents Quality  
Assurance Commission  
2020 Annual Report**

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## **I. COMMISSION BACKGROUND INFORMATION**

The Delaware Nursing Home Residents Quality Assurance Commission (the Commission) was established in 1999 - 29 Del. C. § 7907. The Commission's principal charge is to monitor Delaware's quality assurance system for nursing home residents in both privately run and state operated facilities with the goal that agencies responsible for the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

As part of its monitoring effort, the Commission reviews state agencies responsible for investigating complaints of abuse, neglect, mistreatment and financial exploitation, as well as other agencies that have input on the quality of care in Delaware's nursing homes. The Commission reviews reports of serious citations of quality of care issues and staffing patterns prepared and presented on quarterly basis by the Division of Long term Care Residents Protection as directed by the Joint Legislative Oversight & Sunset Committee in 2006.

The Commission is also charged by the General Assembly and the Governor with examining policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the respective roles of Delaware Health and Social

Services, the Attorney General's Office and law enforcement agencies as well as health care professionals and nursing home providers.

Finally, the Commission is required to prepare and submit an annual report to the Governor, the Secretary of the Delaware Department of Health and Social Services (DHSS), and members of the General Assembly. This is the Commission's 2018 annual report.

## **II. APPOINTMENT OF COMMISSION MEMBERS (May 2019)**

Membership composition was modified during Delaware's 150<sup>th</sup> General Assembly. HB 62 w /HA 1 was signed by Governor Carney on June 5, 2019. Representative Kim Williams and Senator Jack Walsh sponsored this bill. Since then, Ms. Bailey and Ms. Furber have been in touch with the Governor's Office and other appointing authorities regarding membership vacancies.

- (1) One member appointed by the Speaker of the House.
- (2) One member appointed by the President Pro Tempore of the Senate.
- (3) Four members serving by virtue of position, or a designee appointed by the member, as follows:
  - a. The Attorney General.
  - b. The Executive Director of the Community Legal Aid Society, Inc.
  - c. The Executive Director of the Delaware Health Care Facilities Association.
  - d. The Executive Director of the Delaware Healthcare Association.
- (4) Seven members appointed by the Governor as follows:
  - a. One member who is a resident or a family member of a resident of a nursing home.

b. Three members, 1 from each county, who work in a nursing home setting.

c. A health-care professional.

d. Two individuals who are each an advocate for people with disabilities or the elderly, or both.

Other:

The members of the Commission shall elect a Chair.

A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

The Commission may adopt rules and bylaws necessary for its operation.

The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission.

### **Frequency of Meetings**

While the Commission is only required by statute to meet at least quarterly, the Commission meets on a bi-monthly basis.

### **III. AGENCY REVIEWS**

Pursuant to 29 Del.C. § 7907(g) (1), the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and takes testimony (a snapshot in time) from representatives of state agencies and other providers. These include the Division of Health Care Quality, the Ombudsman's Office, Division of Medicaid and Medical Assistance, the Department of Justice, Division of Aging and Adults with Physical Disabilities, Guardianship Monitoring Program, law enforcement agencies, other state agencies, health care professionals and nursing home providers.

To that end, the Commission invited representatives from state agencies and other presenters to appear and testify before the Commission. The following is a summary of these agency reviews:

### DMMA Long Term Care Applications

Staci Marvel, Chief Administrator provided updates regarding Delaware's long-term care eligibility and services for the Division of Medicaid and Medical Services (DMMA).

There are three steps in determining whether an individual is eligible for LTC services and supports: medical, financial and interview.

1. A referral is made to DMMA's Central Intake Unit (CIU). A nurse from the Division will visit and evaluate applicant to determine if he/she requires a skilled or intermediate level of care as defined by Delaware Medicaid criteria.
2. DMMA Central Intake Unit (CIU) will send an application packet to the applicant or family contact. The person receiving the packet will be instructed to call the DMMA CIU for an appointment with a financial eligibility social worker. DMMA Central Intake Unit 1-866-940-8963
3. Interview occurs where applicant or agent presents completed LTC application along with documents verifying applicant's identity and his/her spouse's income/resources to DMMA financial social worker. If additional documentation is requested, a letter will be provided to the applicant or family member regarding such items. Once DMMA has received all information, and if the applicant is determined to be medically and financially eligible, the start date for Medicaid coverage of long-term care services will be determined.

FY 19, there were 1,446 LTC applications received in New Castle County (NCC) and 1,813 applications received in Kent/Sussex.

The Division has an office located in NCC (staff of 32) and Kent/Sussex (staff of 31). They receive roughly 600 LTC referrals a month.

The average number of days to process LTC applications: 36 NCC & 37 Kent/Sussex. The Division's goal is to process LTC applications with 45 days. By law, the Division has 90 days to process an application.

In order to qualify for Medicaid, an applicant's income must fall below a certain level. Most states allow individuals to spend down any income above this level on their care until they reach the state's income standard. But in some states (called "income cap" states), Medicaid applicants who have excess income can qualify for Medicaid only if they put the excess in a special trust, called a "Miller" Trust or a "Qualified Income Trust". In Delaware, Miller Trust tends to be more common now.

The majority of LTC applications as submitted manually (paper) versus on-line. The Division hopes to promote on-line application awareness.

DMMA Central Intake Unit: 866.940.8963.

### Livanta

Bryan Fischer, Communications Lead and Leasa Novack, Communications Director provided an overview of Livanta, which is a Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO).

The Centers for Medicare & Medicaid Services' QIO Program is one of the largest federal programs dedicated to improving health quality at the community level. This network of experts in quality improvement works in partnership with Medicare beneficiaries and their families, providers, communities and health care stakeholders in every setting in which care is delivered.

QIO outcomes are not punitive. Ms. Bailey asked whether Livanta contacts State regulatory or Professional boards or other oversight agencies if outcome or pattern is determined egregious.

The two BFCC-QIOs: Livanta and KEPRO provide support to all 50 states and three territories.

Livanta currently services five regions – Delaware is region #3. Also in region #3: DC, Maryland, Pennsylvania, Virginia, West Virginia.

Centers for Medicare and Medical Assistance (CMS) recently modified BFCC-QIO five year contract - effective June 8, 2019. KEPRO had been Delaware's BFCC-QIO since 2014 and now Livanta will be working with Delaware Medicare beneficiaries.



Beneficiary and Family Centered Care-Quality Improvement Organizations help people who have Medicare exercise their right to high-quality health care by:

- Managing all complaints and quality of care reviews to ensure consistency in the review process
- Handling cases in which Medicare patients want to appeal a health care provider's decision to discharge them from the hospital or discontinue other types of services
- Using the Immediate Advocacy process to address complaints quickly
- Providing Health Care Navigation services

When Medicare beneficiaries have a complaint that is not related to the clinical quality of care, they can participate in a process called Immediate Advocacy. Immediate Advocacy is an informal alternative dispute resolution process facilitated by BFCC-QIOs with a beneficiary's health care provider. Examples of complaints that may be resolved through Immediate Advocacy include being treated disrespectfully by a provider, or concerns about the failure to receive medical equipment, like a motorized scooter, prescribed by the beneficiary's health care provider.

The BFCC-QIO is the point of contact when Medicare beneficiaries or their families want to file a quality of care complaint or make an appeal. Livanta receives 300,000 case reviews yearly. The largest number of case reviews are appeals (220,000). Medicare beneficiaries or representative should call: 888.396.4646 to begin the process. Livanta contacts beneficiary or representative by phone after review to communicate the outcome and will send provider a letter.

Livanta offers an on-line "tool" where beneficiaries or representatives can check the status of their case: <https://qioprogram.org/patients-and-families>.

Beneficiary and Family Centered Care Quality Improvement Organizations (BFCC-QIOs) can help when you have a concern about the quality of the medical care you are receiving from a health care facility (e.g. hospital, nursing home, or home health agency) or professional. You can file a formal Medicare complaint through your BFCC-QIO.

Examples of quality of care concerns include but are not limited to:

- Receiving the wrong medication
- Receiving an overdose of medication
- Receiving unnecessary surgery
- Receiving unnecessary diagnostic testing
- Experiencing a change in condition that was not treated
- Receiving a misdiagnosis
- Receiving inadequate discharge instructions

The remainder of Livanta's case reviews are "Quality Reviews". The quality reviews apply to anything type of service related to Medicare. The Quality Reviews need to be in writing. A complaint form can be downloaded: [www.livanta.com](http://www.livanta.com) or requested by calling: 888.396.4646.

### Vitas HealthCare

Chris Morandi, Director of Marketing and Chantel Cunningham, Sales Representative provided an overview of Vitas Health Care services. Vitas is the second oldest provider in the country (41 years of service).

VITAS provides hospice care services across 14 states and the District of Columbia. In Delaware, Vitas has an office in Newark and Millsboro.

The hospice care team is a group of specially trained healthcare professionals who ensure that a hospice client's last few months, weeks or days are lived in comfort and dignity. The members of this interdisciplinary team include a physician, nurse, hospice aide, social worker, chaplain, volunteer(s) and bereavement specialist.

Every hospice client is under the care of a hospice physician who closely monitors the progression of the client's illness, prescribes appropriate medications and coordinates care with other members of the team. Hospice physicians invite a client's preferred physician to stay as involved as they wish in the care plan.

Hospice nurses are skilled in assessing and managing a client's pain and symptoms. They are trained caregivers who provide hands-on patient care.

Hospice aides are certified nursing assistants who provide personal care to the client, such as bathing and dressing. They are also available

to ease the burden on family caregivers by participating in such activities as laundry and light housekeeping.

Hospice social workers provide emotional and psychosocial support to the client and family. They coordinate the logistics of the patient's care, working with insurance companies or the Veterans Administration and helping with finances, funeral planning or other tasks.

Hospice volunteers are trained in hospice and end-of-life issues to provide compassionate companionship for clients and families or to facilitate their care. Volunteers also assist with music and pet therapy if a client is interested.

Bereavement specialist addresses both anticipatory grief and loss after death. Hospice families receive bereavement support up to 13 months after a death, including consistent contact, support groups, grief education and one-on-one visits.

Terminally ill clients do not usually have to pay for hospice care, and many use the Medicare Hospice Benefit. The Medicare Hospice Benefit provides access to services that address the physical, emotional and spiritual needs that accompany a terminal illness.

Medicare Hospice Benefit covers 100 percent of services including:

- Prescription drugs, over-the-counter medications, medical equipment and supplies related to the clients's terminal illness needed for enhanced comfort
- Physical therapy, occupational therapy, speech therapy and dietary counseling if indicated for palliative purposes
- Lab and other diagnostic tests necessary to achieve optimum palliative care
- Inpatient care for pain and other symptoms that cannot be managed at home
- Bereavement services for the family for at least one year after a loss

Medicare continues to pay for covered benefits for any health problems that are not directly related to the terminal illness. The hospice medical team determines what care is—and is not—directly related to the terminal illness.

There are four levels of hospice care defined by the Centers for Medicare and Medicaid Services (CMS):

- Routine
- Respite
- Inpatient (GP)
- Continuous care

In 2018, Vitas provided hospice services to 363 clients living in Delaware licensed long-term care facilities. The total number of 2018 Vitas clients in Delaware was 850 – 900.

Vitas referrals: 844.334.8124 or Vitas mobile app:

[https://landing.vitas.com/download-vitas-referral-app/?cmpid=van-direct-vitasapp&utm\\_medium=van&utm\\_source=direct&utm\\_campaign=vitasapp%2F](https://landing.vitas.com/download-vitas-referral-app/?cmpid=van-direct-vitasapp&utm_medium=van&utm_source=direct&utm_campaign=vitasapp%2F).

### Easter Seals

Nancy Ranalli, PT, Dir of Community Outreach & Assistive Technology presented to the commission regarding Easter Seals services offered at Delaware & Maryland's Eastern Shore location.

Easter Seals is nonprofit health care organization, committed to the comprehensive health and wellness for people it serves. They offer outcome-based services for individuals with disabilities throughout the lifespan.

Services include: early intervention, inclusive childcare, medical rehabilitation and autism services for young children and their families; job training and coaching, employment placement and transportation services for adults with disabilities, including veterans; adult day services and employment opportunities for older adults – in addition to a variety of additional services for people of all ages including mental health (beginning 10/1/19) and recovery programs, assistive technology, camp and recreation, and caregiving support including respite.

Easter Seals offers inclusive services provided through a network of 69 local Easter Seal communities nationwide as well as four international partners. Easter Seals offers hundreds of home and community based services and supports—categorized into five support areas: Live, Learn, Work, Play and Act.

Easter Seals programs such as adult day services, personal attendant services, services for individuals with dementia and Alzheimer's, wellness programs and support for family caregivers strive to help people live as independently as possible, for as long as possible.

In Delaware, Easter Seals offers adult day programs:

1. Individual's with intellectual or developmental disabilities - 5 days a week (funding covered by DDDS)
2. Adults with acquired disabilities – 1-5 days a week (funding source varies)

Adult Day Health Services addresses the medical and social needs of individuals who experience the effects of aging and/or the impact of a physical disability. Easter Seals provides choices when a loved one needs assistance with daily living, and does not prefer full-time nursing home care.

Easter Seals offers day programs for older adults with intellectual and developmental disabilities, including autism. Services are provided in New Castle, Kent and Sussex Counties in Delaware. Delaware's Division of Developmental Disabilities Services sponsors virtually all day program participants. A few individuals receive services through private fee arrangements.

Personal Attendant Services program (PAS) allows people with disabilities to maintain independent lifestyles, to live in the community and make choices concerning their personal assistant needs. Individuals who take part in the Personal Attendant Services Program choose and hire their own Personal Attendant and work with them based on their individual needs.

The Community Outreach Program offers disability-related education and resources to connect consumers, caregivers and professionals to the information they need. Our Resource and Technology Demonstration Center provides opportunities for "hands on" trial of assistive technology equipment.

Easter Seals of Eastern Shore offers workshops, conferences and educational session to caregivers throughout Delaware. For local caregiver support: [resources@esdel.org](mailto:resources@esdel.org).

Easter Seals has funding, when available, to provide respite services for caregivers. Contact Easter Seals: 302.324.4444 for more information.

Assistive Technology (AT) is any device, system or related service that maintains or improves the functional capability of individuals with disabilities. AT can be beneficial to people of all ages with a variety of disabilities or special needs, both long-term and short term. AT could be considered "tools for independence" to allow someone to live, work, learn or play more independently.

Easter Seals Resource and Technology Demonstration Center is located in the New Castle location where visitors can try hundreds of assistive devices on display and search through products in catalogs & DVDs that will help maintain or improve independence and safety. For more information, email [resources@esdel.org](mailto:resources@esdel.org) or call (302) 221-2087.

#### Managed Care Organizations (MCO's)

Kathleen Dougherty, Delaware Medicaid & Medical Assistance (DMMA) Chief of Operations, provided an update regarding Delaware's two managed care organizations: AmeriHealth Caritas Delaware and Highmark Health Options.

The managed care organizations provide long-term care supports & services (LTSS) for Medicaid clients.

Extensive staff training is required for new hires. In addition, quarterly refresher training occurs. Finally, weekly educational webinars offered regarding long-term supports & services training to include:

- Appeals: Received or did not receive services. Ms. Dougherty will consider sending # of appeals to Commission members for review.
- Grievances: Feeling or opinion that something did not go right
- Fraud, Waste and Abuse:
- Compliance: MCO adhering to laws and regulations.

- Quality and Critical Incidents: Ms. Dougherty will send Commission a list of critical incidents defined by Federal Government.
- Member Rights & Responsibilities: Informing clients

#### Monthly Premiums and Co-Pays:

- Prescription Co-Pays- maximum \$3/prescription, maximum \$15/month
- Premiums: Delaware Healthy Children's Program = \$10 - \$25/household, Medicaid for Workers with Disabilities = \$0 - \$105/month

Both MCO offer: routine office visits, lab services, mental health/substance abuse treatment, specialists, and ambulatory surgery centers. Other services provided when medically necessary: private duty nursing, PT/OT, durable medical equipment and skilled nursing facility. Finally, enhanced benefits offered: adult day, cognitive services, day habilitation, transition services, nursing facility transitions workshops, personal emergency response system, consumer directed attendant care, support for consumer direction and nutritional supplements with HIV/AIDS diagnosis.

The MCO's also have value added services through their own profit including: adult vision, GED Testing, digital home scale, adult dental and disease management & health lifestyle programs.

Ms. Dougherty advised that some dental services will be available to clients – April 2020.

Delaware is the 5<sup>th</sup> State to be in compliance with Home and Community-Based services (HCBS).

Currently there are 12k Delawareans receiving LTSS.

Managed Care Organization contact information:

AmeriHealth Caritas - Member Services: LTSS 1.855.777.6617  
LTSS Member Advocate:  
Valerie Sharpe-Shrewsbury  
302.286.5749

vsharpeshrewsbury@amerihealthcaritasde.com

Highmark Health Options – Member Services: 1.844.325.6251

LTSS Member Advocate:

Katrina Robinson

302.502.4042

krobinson@highmarkhealthoptions.com

The Delaware Division of Medicaid & Medical Services participated in the 2017 – 2018 National Core Indicators Aging and Disabilities Adult Consumer Survey (NCI – AD Adult Consumer Survey).

NCI-AD is a voluntary effort by State Medicaid, aging, and disability agencies to measure and track their own performance.

The core indicators are standard measures used across states to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including service planning, rights, community inclusion, choice, health and care coordination, safety and relationships.

DMMA recognized the need for independent assessment of member perceptions about HCBS and SNF managed long-term supports and services under Diamond State Health Plan Plus Program.

678 Delawareans participated in the 2017 – 2018 NCI-AD survey. 2017 - 2018 results have not yet been published. DMMA plans to administer another survey February 2020.

Biggest barrier for managed care organizations: housing.

### Background Check Center Disqualifiers

Don Bluestein, Division of Health Care Quality (DHCQ) Investigative Supervisor provided an update to commission members in response to the following message that appeared on the Divisions webpage:

“ There has been an ongoing, nationwide concern, about people's privacy. Both of our Federal and State partners are increasing the number of restrictions placed on our system and how the information is accessed. Based on ever evolving rules and regulations and after a recent review, the Division of Health Care Quality has drafted a new list



of disqualifiers. This list is similar to the list used by the State of Delaware, Board of Nursing, in that it encompasses a number of similar offenses used to qualify potential employees. We understand that people make mistakes. Further, that these mistakes should not be held against a person for unusual amounts of time. With that in mind we have grouped the offenses in to six different time constraints. 1 year, 2 years, 3 years, 5 years, 10 years and No limit. These new time constraints will help give you more confidence in our evaluation of an applicant's conviction history and ultimately your decision to hire. We believe that the adoption of this list will better serve the users of the BCC and safe guard those vulnerable people we all wish to help.”

Mr. Bluestein mentioned there are currently 4-5 primary disqualifiers that focus on mistreatment and exploitation. He added that historically employers could see the State side of criminal backgrounds when they searched for a prospective employee. This will be going away in the future so the Division plans to adopt additional disqualifiers from Board of Nursing. The list of additional disqualifiers cannot be distributed just yet as they are being reviewed by DHSS Cabinet Secretary’s Office and Department of Justice.

The additional disqualifiers were developed after reviewing Board of Nursing criminal charges and assigning time thresholds.

If the background check reveals a criminal conviction, the Division cannot divulge the crime to facility.

Examples of no limit disqualifiers: criminally negligent homicide and manslaughter.

### Staffing Report

Rob Smith, DHCQ Licensing Administrator, presented the 3<sup>rd</sup> Qtr 2019 Staffing Report. The cumulative hours per resident totaled 3.75 hours during this snapshot in time. Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too. In addition, all skilled facilities exceeded nurse to residents and aides to residents per shift during certification review.

### Elder Law Program – Community Legal Aid Society, Inc (CLASI)

Colton Fleu, Esquire, provided commission members with an update regarding CLASI’s Elder Law Program (ELP), which provides limited

legal assistance to Delawareans aged 60 years or older. The services provided by ELP are free of charge. There are no financial eligibility requirements for the Elder Law Program.

Mr. Fleu represents clients in Kent and Sussex Counties. Olga Beskrone, Esquire is responsible for services in New Castle County.

The Elder Law Program addresses civil matters and primary focus:

- Powers of Attorney
- Health Care Directives
- Exploitation
- Income at risk
- Housing
- Consumer issues (credit or benefits)

The Elder Law Program also conducts community legal education workshops for older people regarding some of the legal problems that occur with advancing age.

The Elder Law Program is a service partially funded under the Older Americans Act through the Delaware Division of Services for Aging and Adults with Physical Disabilities.

Elder Law Program contact information:

302.575.0666 NCC  
302.674.3684 Kent  
302.856.4112sex

#### **IV. COVID-19 PANDEMIC**

DNHRQAC staff & commission members have been involved with various tasks during the pandemic including: State Health Operation Center calls with LTC facilities; Calls with Delaware hospitals; Guidance feedback; Pandemic Resurgence Committee; Engagement with Federal & State Leadership, stakeholders and agencies; Interaction with Delaware residents and families; On-going feedback regarding visitation, support person and compassionate visits; Participation with resident & staff testing, etc.

As of June 30, 2020, approximately 60 - 65% of Delaware deaths related to COVID-19 were residents of long-term care facilities.

There were a total of 1,160 positive COVID-19 cases cumulatively involving long-term care residents, and 333 residents of Delaware long-term care facilities died from complications related to COVID-19.

## **V. JOINT LEGISLATIVE OVERSIGHT & SUNSET COMMITTEE**

The Commission oversees the Joint Legislative Oversight & Sunset Committee's 2006 recommendations made for the Division of Long Term Care Residents' Protection (now referred to as the Division of Health Care Quality) and reviewed as follows:

- The Division of Health Care Quality established a Quality Assurance Review Team (QAR Team) that reviews deficiency reports quarterly. The QAR Team provides a written quarterly report to the Commission regarding any upgrades to "G" level or above and downgrades to "G" level or below by the QAR Team, setting forth the number of such downgrades and upgrades at each facility and the reason for each. Quarterly reports are submitted to the Commission on the 15<sup>th</sup> of every September, December, March and June.
- The Division of Health Care Quality submits a written quarterly report to the Delaware Nursing Home Residents Quality Assurance Commission identifying a nursing home's noncompliance with staffing ratios by shift under Eagle's Law (16 Del. C. §1162).

## **VI. LEGISLATION, REGULATIONS, EMERGENCY ORDERS AND GUIDANCE(S)**

The Commission received notice of regulations, guidelines and emergency orders effecting long-term care residents in the State of Delaware during 150<sup>th</sup> General Assembly, including:

### Legislation

HB 358 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO FEDERAL CORONAVIRUS RELIEF FUND OF 2020 (CARES ACT 2020).

State of Emergency Orders (04.15.20)

State of Emergency 11<sup>th</sup> amendment – Requiring stricter guidelines to prevent COVID-19 infections in nursing homes and other long-term care facilities.

Universal Testing in LTC Facilities (05.05.20)

Governor Carney and the Delaware Division of Public Health (DPH) announced a plan to test all residents and staff of Delaware long-term care facilities for COVID-19.

DPH provided facilities with tests, testing supplies, training, and support for the universal testing program. COVID-19 testing capacity was expanded for vulnerable populations and a requirement of federal guidance for economic reopening.

Public health experts at the Division of Public Health (DPH) provided support to clinicians at long-term care facilities with the new testing program. DPH provided guidance on testing of symptomatic and asymptomatic persons and the interpretation of results. DPH provided recommendations to protect residents and staff based on results, including transmission-based precautions, isolation, and patient and staff management strategies.

Emergency Regulation Skilled Facilities (05.26.20)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF HEALTH CARE QUALITY Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119 (16 Del.C. §1119C & 29 Del.C. §10119) 16 DE Admin. Code 3201 EMERGENCY SECRETARY'S ORDER Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat, and pursuant 3201 Skilled and Intermediate Care Nursing Facilities AUTHORITY Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of

Delaware Due to a Public Health Threat (“Governor’s Emergency Declaration,”), the Department of Health and Social Services (“Department”) is adopting emergency regulatory amendments to 16 Del. Admin. C. § 3201: Skilled and Intermediate Care Nursing Facilities.

Emergency Regulation Assisted Living facilities (05.26.20)

EMERGENCY SECRETARY'S ORDER Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat 3225 Assisted Living Facilities AUTHORITY Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 and pursuant to Paragraph 2(d) of the Governor’s Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat (“Governor’s Emergency Declaration,”), the Department of Health and Social Services (“Department”) is adopting emergency regulatory amendments to 16 Del. Admin. C. 3225: Assisted Living Facilities.

Guidance (Various Dates)

During COVID-19 Pandemic, there were several directives issued to long-term care providers at the Federal and State level. DNHRQAC provided on-going feedback regarding the guidelines:

- Training - Mandatory Testing by Curative (6.3.20)
- Designation of Primary Facility (6.3.20)
- Get Tested to Reduce the Spread of COVID-19 (6.17.20)
- Long-Term Care Residents Consent Declination Form (6.24.20)
- SHOC Resource Request
- Long Term Care Sentinel Surveillance and Testing Program (6.3.20)

- Suggested Guidelines for Determining Presumed Positive COVID-19 Resident Status (4.23.20)
- Cloth Mask Guidance (4.6.20)
- Health Care Waivers (4.9.20)
- Public Health Orders for Regulatory Requirements (4.9.20)
- Staffing Assistance Request Procedure (4.9.20)
- Staffing Assistance Request Form (4.9.20)
- Optimizing Personal Protective Equipment (PPE) Supplies
- Strategies to Mitigate Healthcare Personnel Staffing Shortages
- CDC Information on Donning and Doffing PPE
- CDC Guidance on Cleaning and Disinfection for Community Facilities
- Poster for Restricting Visitors in LTC Facilities
- Alzheimer Foundation of America – Tips for LTC staff

## **VII. COMMISSION STAFFING**

The Delaware Nursing Home Residents Quality Assurance Commission members hired a full-time Executive Director as of January 31, 2007. The Administrative Office of the Courts manages the salary and budget of this position. The Executive Director represents the Commission and works closely with State Agencies and other stakeholders to aid in the quality of care for residents in licensed Delaware State and Private Nursing Homes and Assisted Living Facilities.

## **VIII. NURSING HOME AND ASSISTED LIVING FACILITY VISITS**

Commission Staff and members of Delaware Nursing Home Residents Quality Assurance Commission visited 32 nursing homes and 24 assisted living facilities during July 1, 2019 and June 30, 2020. The purpose of the visits was to promote an atmosphere of information sharing so that the Commissioners would be able to fulfill their responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Staff and Commissioners interacted with facility administrators, staff, residents and families during visits.

In addition, the staff received phone calls from family members and the community regarding:

1. How to locate long-term care and/or assisted living facility services;
2. Who to contact regarding Nursing Home Transition services;
3. Which State agency would investigate a nursing home or assisted living facility complaint;
4. How to locate Ombudsman or Guardianship assistance;
5. Communication among families and LTC facilities during COVID-19;
6. Visitation policies and guidance during COVID-19.

As a result of being contacted by residents, family members and the community, staff provides contact information and alerts appropriate agencies so they can follow-up with the individuals directly.

Staff works actively with stakeholders to develop educational programs to improve the quality of life/care for individual's living in a nursing home or assisted living setting.

Staff is involved with awareness efforts in Delaware regarding elder abuse, neglect and financial exploitation of the elderly and vulnerable adult population.

## **IX. FACING FORWARD: COMMISSION GOALS**

The Commission has set the following goals for its work in the coming months:

- Continue to review agency performance and coordination.
- Focus on reviewing what other states are doing to ensure quality of care and provide recommendations to the Governor and Members of the General Assembly.
- Encourage collaborative initiatives that will reduce high turnover of nursing home staff and help recruit qualified staff to long term care.
- Foster and promote abuse/fraud investigation training for law enforcement and other agencies statewide.
- Monitor enforcement of Eagle's Law so as to ensure minimum staffing level compliance.
- Enhance outreach to consumers of long-term care to increase Commission profile so as to ensure the Commission is called upon to review problems and deficiencies in long term care.
- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify "Gaps" in services available for aiding in the care for the elderly and disabled.



- Review educational programs such as Certified Nursing Assistants (CNA) and make educational recommendations to enhance the programs.
- Focus on employee recruitment and retention challenges to aid in the quality of care for residents.
- Provide feedback to State agencies and stakeholders regarding the comprehensiveness of their response to COVID-19 Pandemic.
- Explore opportunities of improvement and lessons learned from COVID-19 Pandemic with State agencies, residents, families, stakeholders and providers.

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