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DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION  
Virtual Meeting  
Cisco Webex  
FINAL  
Meeting of May 18, 2021  
Minutes

Commission member(s) present: Lisa Furber, DNHRQAC Chair; Cheryl Heiks; Lorraine Phillips, Ph.D.; Norma Jones; Dr. Michela Coffaro, Psy; Ed Black, Esquire; Kyle Hodges; Representative Kim Williams; Lt Gov Bethany Hall-Long; Hooshang Shanehsaz; Karen Gallagher and Amy Milligan. Annie Cordo, Esquire, DOJ was also in attendance.

The Department of Justice is in the process of assigning a deputy attorney general to represent DNHRQAC. Previously, Karin Volker, Esquire represented the commission. She recently returned to DOJ Criminal Division.

Commission members not in attendance: Lt Gov Bethany Hall-Long.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Kathleen Dougherty, DMMA; Mary Catherine McLaughlin, Consumer; Candace Esham, Consumer; Barnabus Kerkula, DSAAPD; Jill McCoy, LTCOP; Mary Peterson, Consumer; Staci Marvel, DMMA; Mark Brainard, JLOSC; Jill Fredel, DHSS; Karen Crowley, DHCQ; Felicia Alderson, Kutz; Lisa Zimmerman, DMMA; Sheila Grant, AARP; Stephen McDonald, MFCU; Paul Muller, DHCQ; Molly Magarik, DHSS; Holly Wagner, JLOSC; Deborah Smith, DSAAPD; Melissa Winters, DSAAPD; Teresa Ritter, DSAAPD; Melissa Smith, DSAAPD; Michelle Welch, APS; Corinna Getchell, DHCQ; Amanda McAtee, JLOSC and Jim McCracken, LeadingAge. There were 2 additional individuals that joined the meeting by phone/webex and not identified.

1. Call to order

The meeting was called to order at 9:33 AM by Lisa Furber, DNHRQAC Chair. A special welcome to Stephen McDonald, Esquire, new Director for the Medicaid Fraud Control Unit.

2. Approval of the Minutes for the meeting of:

The meeting minutes' draft of March 16, 2021 were approved as written.

3. Discussion of:

Delaware Health and Social Services

The commission invited several DHSS leadership members to a roundtable discussion relating to COVID-19 in Delaware nursing homes and assisted living facilities.

Secretary Magarik, DHSS Cabinet Secretary (Aug 1, 2021), provided a timeline regarding COVID-19 pandemic in Delaware:

- March 11, 2020 - Governor Carney announced first COVID-19 case

- March 12, 2020 - Governor Carney issued State of Emergency
- May 5, 2020 - Governor Carney and DPH announced universal testing for LTC residents and staff
- June 1, 2020 - LTC staff testing became mandatory
- June 2020, Governor Carney signed an Executive Order creating the Pandemic Resurgence Advisory Committee to examine lessons learned from the first surge and plan for a potential resurgence in the fall
- LTC residents & staff deemed Phase 1A for vaccine distribution
- Dec. 17, 2020 – LTC staff began receiving vaccinations (3 Genesis facilities)
- Week of Dec. 28, 2020 – LTC residents began receiving vaccinations through the Federal Pharmacy Program (Walgreens & CVS)
- February 2021 – LTC facilities could reopen for indoor visitation with approval from DHSS by meeting criteria
- May 13, 2021 - 753 of 1,651 COVID-related deaths in Delaware (45.6%) involved residents of long-term care facilities
- Internal DHSS workgroup led by Melissa Smith, DSAAPD

Secretary Magarik shared that due to declining cases, hospitalizations and deaths and as Delaware moves toward reduced restrictions in terms of social distancing and face masks, DHSS's emphasis will be on:

- Tracking cases for any uptick in community spread
- Continuing to require the use of face masks for all in congregant settings, including LTCs
- Encouraging Delawareans to get vaccinated as the best way to protect themselves and others
- Analyzing all aspects of the state's response, including the impact on long-term care facilities and vulnerable populations

When asked about the number of COVID-19 variances in Delaware, Secretary Magarik mentioned the State is keeping a close eye on variances throughout the State.

The Mortality Review Committee was not meeting during the pandemic but Secretary Magarik shared that the Department will be looking into restarting this and other committees that were placed on hold during the pandemic.

#### I. Division of Health Care Quality (DHCQ)

Corinna Getchell, DHCQ Director, shared that during the pandemic, one resident or staff members equals an outbreak.

The Division has been educating and providing guidance to all Delaware LTC and AL facilities regarding Federal and State updates. CMS released new guidance last week for certified facilities. The State will be looking at this further.

The Division hired a LTC Medical Director to improve responses and assist LTC facilities through the pandemic. In addition, DHCQ has partnered with the quality improvement organization to assist with educational opportunities.

Incident Response Teams (IRT) have been developed. These teams enter facilities with an identified outbreak to review infection prevention procedures, observe, etc and make recommendations for improvement. Since January 26, 2021, IRT's have conducted 15 visits.

In addition, IRT's have been reviewing vaccination data of the facility, residents and staff to see if they can assist with vaccination rates through resources, tools and guidance.

Since January 1, 2021, DHCQ has received 1,415 intake referrals. The Division's investigators have been conducting investigations regarding abuse, neglect and financial exploitations during the entire pandemic.

During the pandemic, the main focus of the Division's work has been centered around:

- Infection and Control Surveys
- Recertification Surveys
- Two and 10-day complaint surveys

When asked how many residents or staff have been vaccinated, Ms. Getchell mentioned this number is fluid and therefore unable to provide such information. There are new admissions, discharges and deaths occurring every day. Staff turnover also occurs and therefore the numbers are not easily available. Some staff members also work at multiple facilities - simultaneously.

Currently in Delaware there isn't a mandate for LTC facilities to require COVID-19 vaccine as a condition of employment.

Ms. Getchell added the Division of Public Health has also been working with facilities to test for any variances and is not aware of any breakthrough cases in LTC facilities.

CMS recently released guidance requiring federally certified LTC facilities to have policies and procedures in place showing COVID19 vaccine was offered & education was provided to residents and staff. The Division is working on creating similar guidance for State licensed-only facilities.

The latest LTC Visitation Guidance states that fully vaccinated residents and visitors can visit without masks but must wash hands before and after visit.

Fully vaccinated means: 14 days after 2<sup>nd</sup> dose of 2-dose series or 14 days after single-dose vaccine.

Fully vaccinated residents can participate in communal dining and activities without masking or social distancing requirements. Visitors will need to be willing to show proof of vaccination or be considered not vaccinated.

When asked which DHSS agency should be contacted regarding complaints, Ms. Getchell mentioned that a few state agencies focus on a specific concentration: residents rights (LTCOP), civil (DHCQ) or criminal (MFCU), etc. Regardless, if a referral is made to a State agency and should be followed-up by another, the information is forwarded to the appropriate agency to investigate.

Ms. Getchell shared that Centers for Medicare & Medicaid Services (CMS) will not be terminating at this time the waiver related to training and certification of nurse aides. The purpose was to help nursing homes address staffing shortages during the pandemic, CMS provided a blanket waiver for the nurse aide training and certification requirements.

The current waiver allows a nursing home to employ an individual as a nurse aide who has not completed a state-approved Nurse Aide Training and Competency Evaluation Programs (NATCEP).

The Division is currently evaluating the requirements and collecting data on the number of potentially effected healthcare professionals in Delaware.

The following LTC Regulatory Waivers in response to COVID-19 will be terminated May 10, 2021:

- The emergency blanket waivers related to notification of Resident Room or Roommate changes, and Transfer and Discharge notification requirements
- The emergency blanket waiver for certain care planning requirements for residents transferred or discharged for cohorting purposes.
- The emergency blanket waiver of the timeframe requirements for completing and transmitting resident assessment information - Minimum Data Set (MDS).

## II. Long Term Care Ombudsman Office (LTCOP)

Jill McCoy, State LTC Ombudsman, shared LTCOP's experience through the pandemic. She mentioned that early on, LTCOP contacted Delaware LTC facilities and asked for residents and power of attorney contact information so they could get in touch with them directly.

In addition, LTCOP attended State Health Operation Center calls with LTC providers to learn about issues and concerns in the facilities.

The agency also delivered posters and brochures to Delaware LTC facilities. The brochures were also shared with DMMA to include in LTC Medicaid packets.

Due to outbreaks at times, LTCOP staff were meeting with residents and their representatives virtually. The agency was often contacted regarding resident's rights issues and concerns: bathing, visitation, care, discharges, transfers, etc.

As CMS and the State modified guidance, LTCOP staff were able to re-enter the facilities for in-person visits. Since March 1, 2021, LTCOP has completed 30 LTC facility visits. The agency will continue to focus on visiting facilities with the largest number of complaints.

LTCOP is working on posters to be displayed in resident's rooms. The agency believes it will be more beneficial to have information displayed throughout the facility for residents and their representatives, instead of displayed only in a few designated areas. The posters will include a place card holder to include contact information specific to LTC ombudsman assignments. If anyone has any poster suggestions, please contact Jill McCoy @ [jill.mccoy@delaware.gov](mailto:jill.mccoy@delaware.gov).

LTCOP provided community outreach during the pandemic. There was an eight-week billboard campaign on display throughout the State.

In addition, LTCOP hosted several virtual (Zoom) events that focused on topics including an overview of LTCOP and Advanced Care Directives.

Currently, the Volunteer Ombudsman Program is not active in Delaware LTC facilities (due to pandemic) but the agency hopes to resume volunteer participation soon. The agency began training a new group of volunteer ombudsman - early April 2021. Recruitment efforts have continued throughout the pandemic. Administration on Community Living changed their training requirements and LTCOP hopes to roll out the changes in Delaware – October 2021.

LTCOP recently worked with UD Biden School of Public Policy & Administration to create a seven-week Conflict Resolution Program for the LTC ombudsman. The last class will meet tomorrow and others such as Ms. Getchell, Ms. Furber and Ms. Bailey have also attended the educational sessions.

### III. Adult Protective Services (APS)

Melissa Smith, DSAAPD Director, presented on behalf of APS. Adult Protective Services are voluntary. APS responds to cases of suspected abuse, neglect, or exploitation of impaired adults. Specifically, the program serves persons who are aged 18 or over, who have a physical or mental impairment, and who are not living in a long-term care facility.

Ms. Smith shared that APS calls dipped a bit during the beginning of the pandemic and then began to pick back up. Reporters were worried about the initial decline. When reporting picked back up, investigators were able to go out and perform field visits. A lot of their investigative work was done via telephone; however, emergency and priority investigations were handled in-person. The agency is pretty much fully operational currently.

The agency has been working on improving community outreach to make it easier for individuals to be able to find their way and report. APS has made changes to their webpage: [www.dhss.delaware.gov/dhss/dsaapd/aps.html](http://www.dhss.delaware.gov/dhss/dsaapd/aps.html). Ms. Smith shared that APS is working on other developments thanks to funds they received from Administration of Community Living.

### IV. Division of Services Aging and Adults with Physical Disabilities (DSAAPD)

Melissa Smith, DSAAPD Director, provided an update regarding the State operated LTC facilities. At this time, Delaware Hospital for the Chronically Ill (DHCI) is the only State operated facility open. Governor Bacon Health Center (GBHC) consolidated with DHCI in June 2020. The residents & staff from GBHC were transferred to DHCI.

Current census at DHCI = 92 residents & 91% of the residents are fully vaccinated. DHCI is licensed for 205 beds and of that, 175 of the beds are Medicaid approved.

DHCI has a Neurobehavioral Health Program spearheaded by Dr. Melissa Winters. The program has received several awards at the Governor's level during the past few years. DHSS leadership is incredibly proud of this program. The Neurobehavioral Health Program was so important during a time where residents were isolated and unable to attend normal activities. Staff was able to connect residents with loved ones through multiple technology resources.

DHCI applied & received civil monetary penalty funds for software (Never Too Late) & virtual technology devices (tablets, iPads, etc) for the residents.

DHCI was also used to host several phase 1 healthcare providers and 65 plus vaccine clinics. Over 1,000 vaccine doses were administered at this location.

Admissions process at DHCI begins by contacting the Aging and Disability Resource Center. The admissions team is a multiple disciplinary team of clinicians, social service professionals and others that weigh in on the decision process. Cases are reviewed on an individual basis after all private facilities have been explored or other placement options have been exhausted. The process takes a while as DHCI is considered the last resort. A small handful of residents were admitted to DHCI during the pandemic this past year.

#### 4. Old/New Business

##### Joint Legislative Oversight and Sunset Committee (JLOSC) Recommendations

##### Long Term Care Facility Visits

Ms. Bailey mentioned she has been participating in safe distanced observations sessions at long term care facilities during the pandemic. Ms. Bailey plans to resume in-person facility visits soon. Commission members interested in joining her for in-person facility visits, please let her know.

##### DNHRQAC FY21 Annual Report

Ms. Bailey asked commission members to consider assisting with format changes to the annual report. Lisa Furber will be in touch with commission members regarding this and other anticipated commission related subcommittees.

##### DNHRQAC Membership Vacancies and Hold Over's

Ms. Bailey is working with the 'new' Director of Boards & Commission's in the Governor's Office, Lori James, regarding governor appointed membership vacancies and hold overs. Once information has been provided, Ms. Bailey will share with commission members.

#### 5. Public Comment

Candace Esham shared her families experience during the pandemic regarding LTC for her Memom (grandmother). Ms. Bailey will connect Ms. Esham with LTCOP to assist further with some concerns.

##### Health Observances

May:	June:
Older Americans Month	National Safety Month
5/9 - 5/15 National Nursing Home Week	6/17 - 6/24 National Nursing Assistants Week
5/9 - 5/15 National Hospice Week	
5/6 - 5/12 National Nurses Week	

World Elder Abuse Awareness Day (WEAAD)

A Senate Concurrent Resolution will be sponsored by Senator Hansen, Representatives Longhurst, Williams and Griffith. WEAAD is June 15, 2021 and provides awareness regarding elder abuse, neglect and financial exploitation. DNHRQAC Chair and Executive Director plan to attend the 6/15/2021 General Assembly live-streaming House/Senate sessions.

6. Next meeting commission meeting will be on Tuesday July 20, 2021 @ **location to be determined.**
7. Adjournment

The meeting was adjourned at 11:02 AM by Lisa Furber.

Attachments: DNHRQAC Meeting of May 18, 2021 agenda  
DNHRQAC Meeting of March 16, 2021 - draft

DHSS Presentation (slides shared during presentation)