

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Working Session #2 Final Notes

Discussion of JLOSC Recommendations & Path Forward

Cisco Webex

December 21, 2021 @ 9:30 am - 11:00 am

I. Role Call

The following commission members were in attendance: Lisa Furber, Representative Kim Williams, Tonya Burton, Lt. Gov Bethany Hall-Long, Hooshang Shanehsaz, Ed Black, Cheryl Heiks, Jennifer McLaughlin and Norma Jones. Randy Vesprey, DNHRQAC DAG was also in attendance.

The following commission members were not in attendance: Karen Gallagher, Amy Milligan and Kyle Hodges.

Lisa Furber thanked members for their participation and reminded group that public comments were not going to be accepted during this working session.

Mark Brainard, Jr and Amanda McAtee, JLOSC staff, were present.

II. Approval of Working Session #1 (October 19, 2021) notes

The Working Session #1 Notes were approved as written.

III. Resume Discussion of JLOSC Recommendations - Commission members recapped the Working Session #1 discussion of October 19, 2021. In addition, members discussed:

Administrative and Budgetary Responsibilities

Ms. Furber and Ms. Bailey mentioned there have been on-going discussions with JLOSC staff and others regarding administrative and budgetary responsibilities.

Name Change

Members were asked during JLOSC Working Session #1 to review DNHRQAC mission statement, which might help guide members with name change ideas. Ms. Furber read DNHRQAC mission statement which includes four key objectives:

*“DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.*

*Key Objectives:*

- *Examine the policies and procedures and evaluate the effectiveness of the quality assurance system for nursing home residents.*
- *Monitor data and analyze trends in the quality of care and life of individuals receiving long-term care in Delaware.*
- *Review and make recommendations to the Governor, Secretary of the Department of Health and Social Services and General Assembly concerning the quality assurance system and improvements to the overall quality of life and care of nursing home residents.*
- *Protect the privacy of nursing home residents.”*

Ms. Furber mentioned the importance of remaining focused on the original intention of this commission and not be too broad with name change suggestions. There are other agencies or organizations that provide oversight in other licensed environments (group homes, neighborhood homes, and other congregate settings). This commission was designed to focus on individuals receiving services and supports within licensed long-term care and assisted living facilities.

Ms. Heiks asked whether the commission is planning to add other congregate settings (group homes), community services (home health care) or hospice services.

Representative Williams mentioned that the public might not understand what quality assurance really means. If individuals were looking for assistance and they came across the current name of the commission, would they know how this commission can assist? Perhaps changing the words quality assurance to something more people friendly might be useful.

Mr. Shanehsaz suggested members might want to consider using the word oversight instead of quality assurance.

Ms. Furber read the meaning of the word “oversight” to the group: the act or duty of overseeing watchful care; responsible for supervising or managing through watchful eye; review and monitor public sector organizations and their policies, plans, programs.

The following names were brought forward for consideration:

Delaware Nursing Home Oversight Commission

Delaware Long Term Care Oversight Commission

Ms. Bailey reminded members that long term care extends beyond aging population as Exceptional Care for Children is licensed as a nursing home. In addition, when this commission was created, there were only a handful of licensed assisted living facilities. Currently, there are 33 licensed assisted living facilities in Delaware. Individuals often transition through different environments: home, hospital, rehab, etc and therefore the commission is looking at the journey folks are experiencing with the delivery of care.

Members voted and approved name change to reflect - Delaware Long Term Care Oversight Commission. Ms. Furber stated that the group will work on making changes to the name and so forth in the new year.

#### Criteria for Facility Visits

*“DNHRQAC shall develop a criteria and rubric for visits to long-term care facilities. This rubric shall be published to its website and included in the annual report.”*

Ms. Furber stated that facility visits occur for multiple reasons: opening ceremony, events, resident council meetings, care plan meetings, tours, educational opportunities, etc. The commission is not meant to be a survey inspector or punitive in nature. The intent of the visits is to help resolve issues or concerns and share information.

Ms. Bailey forwarded DNHRQAC Visiting brochure to commission members after last JLOSC Working Session (also appears on DNHRQAC webpage).

Representative Williams asked JLOSC staff (present on this call) to clarify this recommendation and whether it also requires DNHRQAC staff to visit 85 facilities, reminding that Ms. Bailey is an office of one. Rep. Williams recalled members were concerned during last JLOSC Working Session that facilities might have concern if

DNHRQAC staff visits and writes up some type of negative review on its webpage. Members expressed concerns during same meeting about including any facility identifying information on webpage, too and unintended consequences as a result.

Ms. Bailey shared that Judicial Information Center (JIC), Judicial Branches IT Department, would need to approve information before its able to be posted on webpage.

Ms. Furber added that her understanding of the rubric:

1. Purpose of visit
2. Information being distributed about the commission
3. Any health or safety issues addressed if complaint based
4. Any items needing follow-up

Ms. McLaughlin agreed the intent of this recommendation might be quite simple and that JLOSC might be looking for clarification through a rubric as to what characteristics a facility visit may resemble.

Mr. Brainard, Jr confirmed the intent of this recommendation was not to mandate the number of facility visits but rather provide the public and stakeholders with information about what occurs at the visits. The details do not need to be granular or specific.

Ms. Furber offered to create visitation criteria form that will be used during future facility visits. The form will be shared with commission members during DNHRQAC Meeting of January 18, 2022.

Commission members believe this JLOSC recommendation is asking DNHRQAC members to consider publishing the rubric on DNHRQAC webpage, if permitted by Judicial Branch.

A motion was brought forth by Representative Williams for DNHRQAC Chair to develop a facility visitation rubric and share document during DNHRQAC Meeting of January 18, 2022. Members voted to approve this motion.

#### Eagle's Law Update

*“DNHRQAC shall engage the necessary stakeholders to report and recommend to the Department of Health and Social Services and the General Assembly needed changes to Eagle's Law, Chapter 11, Title 16 of Delaware Code, no later than January 31, 2022.”*

Division of Health Care Quality (DHCQ) was providing quarterly nursing home staffing (ratio) reports to DNHRQAC due to Division's Sunset review in 2006. This requirement has been paused due to Federal and State guidelines during COVID19 pandemic.

Ms. Furber believes the intent of this recommendation is to determine whether the current nursing home staffing ratio requirements in Delaware are sufficient. Eagle's Law was created many years ago - people are living longer with more comorbidities. An outside vendor was hired to research, gather information and determine suitable staffing ratio's in Delaware during this time.

Ms. Bailey shared that many licensed skilled (nursing home) facilities currently offer short term rehabilitation services. This was not the case years ago when Eagle's Law was created. Facilities that provide short-term rehabilitation and long- term care services within same building are able to meet “overall” current minimum staffing ratio of 3.28 hours per resident per day; the staffing ratios are not separated out based on acuity level of care needed.

The commission has often heard from family members stating there isn't enough staff working in long term care facilities to meet the needs of their loved one or other residents.

Ms. Furber wants to caution members about current healthcare and other staffing shortage situations occurring across the board during this pandemic. In particular, DHCQ Director recently shared that staffing shortages are becoming increasingly challenging within long-term care facilities and hospitals.

Ms. Jones shared some examples of staffing challenges witnessed within long term care setting.

Ms. Burton stated that nursing homes are currently in a staffing crisis due to COVID19. Ms. Burton added that CNA training courses were suspended except for the 8 hour TNA program (expired 12/31/2021). After the TNA waiver expires, facilities will need to find other assignments for those employees, as they can no longer serve on the floor as a CNA.

Representative Williams mentioned a piece of legislation that is being circulated around to facilitate rapid certification of Delaware National Guard staff as CNA's. This will allow DHSS to establish the total number of hours for clinical training modeled after Minnesota. Eligible guard members will participate in rapid certification through DTCC to provide temporary staffing in long-term care facilities experiencing staffing shortages. The General Assembly is working on some type of solution. This legislation is still being circulated and still needs to go through committee.

Ms. Heiks added this legislation is to assist with overcrowding in the hospitals during this surge and not necessarily provide long-term staffing that is needed. The facilities appreciate the assistance and flexibility with the training but it's not a long-term solution.

Mr. Shanhsaz mentioned members may want to review staffing ratios in the future as part of quality assurance duties and responsibilities.

Ms. McLaughlin asked since JLOSC process began pre-pandemic, whether this group could make a brief statement that we agree staffing ratios need review with stakeholders after pandemic crisis is settled.

Ms. Furber added that it's not just one thing that has contributed to staffing shortages. As a commission, we've often touched upon many of the workforce complexities: CNA testing performance results, recruitment, retention, workforce competition with other healthcare environments, etc.

#### Staffing Ratio's at Assisted Living Facilities

*"DNHRQAC shall conduct the required research to report and recommend to the Department of Health and Social Services and the General Assembly the necessary policy to adopt staffing ratios at assisted living facilities no later than January 31, 2022."*

Commission members agree that staffing ratios should be reviewed in the future for both skilled and assisted living level of care. Members understand that during the pandemic facilities are facing staffing challenges and therefore would like to hold off on this discussion until pandemic is under better control. The commission will continue to look at trends and needs regarding ratio for staff to residents. Members will continue to monitor critical staffing issues during the pandemic.

Ms. Heiks shared links from Bureau of Labor in the working session chatbox. The statistical reports include workforce data within healthcare settings: nursing homes, home health care and hospitals. These reports may be helpful for any future workforce development initiatives.

#### Annual Report Updates

*“DNHRQAC shall add the following information to its annual report:*

- a. Rubric, criteria, findings, and recommendations from facility visits.*
- b. Any recommendations, including all correspondence, made to the Department of Health and Social Services, the Governor, the General Assembly, and other stakeholder organizations.*
- c. Summary of legislative lobbying efforts, including the Commission’s position on legislation and regulations effecting long-term care residents.*
- d. Policy, advocacy, and legislative goals for the upcoming year.*
- e. Breakdown of Executive Director duties including the percentage of time devoted to each duty.”*

Members discussed the annual report recommendations provided by JLOSC. Ms. Heiks and Ms. McLaughlin offered to help with the annual report.

#### Follow Up Reporting to JLOSC - Due January 31, 2022

*“DNHRQC shall submit a status report, no later than January 31, 2022, updating the JLOSC on the implementation process of the adopted recommendations as well as a succession plan for the role of Executive Director, including a job description.”*

JLOSC forwarded a progress report that should be completed by January 31, 2022. Once this has occurred, DNHRQAC will be released from review.

Commission members agreed to put together a statement and response to address items that have been completed and or list further steps to address JLOSC recommendations.

#### IV. Create DNHRQAC Sub-Committees

Discussion occurred around DNHRQAC annual report. Ms. Laughlin and Ms. Heiks offered to assist with reformatting and proof-reading FY 22 annual report. Ms. Bailey will schedule meeting with this small sub-committee to work on annual report in near future.

#### V. Action Items

- A. Ms. Furber will create a facility visitation criteria form and present during DNHRQAC Meeting of January 18, 2022.
- B. Ms. Bailey will schedule meeting with annual report sub-committee members.
- C. Ms. Heiks and Ms. Burton have been asked to provide any suggestions or responses they would like DNHRQAC to consider sharing with JLOSC regarding Eagles Law and Assisted Living Staffing Ratio recommendations. These items will be considered during January 18<sup>th</sup> commission meeting. Ms. Bailey will email Ms. Burton as to such and Ms. Heiks offered to share information from DHCFA board regarding legislative agenda.
- D. DNHRQAC will formally respond to JLOSC regarding recommendations by 1/31/2022.