

Delaware Nursing Home Residents Quality Assurance Commission

Annual Report

FY 2021 & 2022

(July 1, 2020 – June 30, 2021)

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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 Executive Director can be reached by office phone: 302.836.2133 or email: margaret.e.bailey@delaware.gov.

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Members of the Commission as of July 1, 2022

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DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

ANNUAL REPORT FY 21 & FY 22

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I. BACKGROUND INFORMATION

The Commission

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 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 FY 2021 & 2022 annual report.

Appointment of Commission Members

DNHRQAC Membership is composed of:

- (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 noteables:

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.

II. AGENCY REVIEWS

Introduction

Pursuant to 29 DeI.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 (DHCQ), the Long Term Care Ombudsman's Program (LTCOP), Division of Medicaid and Medical Assistance (DMMA), the Department of Justice (DOJ), Division of Aging and Adults with Physical Disabilities (DSAAPD), Guardianship, law enforcement agencies, other state agencies, health care professionals and industry 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/snap shot of the agency reviews and information they presented:

FISCAL Year 2021:

- Division of Health Care Quality – Nursing Home Staffing Reports for all 4 quarters; Quality Assurance Review Committee Report (QART) for all 4 quarters; Covid Guideline Updates, Incident Response Team Updates; Infection Prevention Surveys; Veterans Affairs Nursing Support; Long Term Care Re-Opening Plan, Visitation Plan

and Support Person Plan; Updates on Recertification and Complaint Surveys, Regulation Updates including Waivers, Vaccination Updates; State Mandated Trauma Informed Training in Long Term Care Facilities, Strike Teams, New Medical Director, Covid 19 Testing Guidance (Staff and Residents).

- Division of Medicaid and Medical Assistance – Managed Care Organization updates; Long Term Care Medicaid Eligibility Unit updates.
- Long Term Care Ombudsman Program – Updates on Facility Visits (both virtual and in person); Overview of Complaints received; Outreach activities, Training of Staff and Volunteers; Discharge Appeals; Visitation Guidelines; Covid Outbreaks.
- Guardianships/Court of Chancery – Overview of Guardianship Process (Person, Property, Minors); General Guardianship Case data; Update on SCR30 Non-Acute Patient Medical Guardianship Task Force.
- LeadingAge – Overview of their Mission and Services to the Long Term Care Industry; Expansion of their Scope/Membership to include Delaware.
- Department of Health and Social Services Overview and Panel – Discussion of Covid19 Response by Department and Divisions, Data Collection, Plans for Root Cause Analysis, Future Emergency Preparedness Exercises, Long Term Care workforce, Personal Protective Equipment; Pandemic Public Reporting. Participants included DHSS Secretary's office, DHCQ, Adult Protective Services, DSAAPD, LTCOP.
- AARP Delaware – Overview of Nursing Home Covid 19 Dashboard
- Swank Memory Center – Overview and Update of their services; Information and tips on how to limit isolation during Covid 19 for individuals with dementia.

- Public Comment was accepted at each meeting.

FISCAL Year 2022:

- Division of Health Care Quality - Nursing Home Staffing Reports for all 4 quarters; Quality Assurance Review Committee Report (QART) for all 4 quarters; Covid Guideline Updates, Incident Response Team Updates; Infection Prevention Surveys; Veterans Affairs Nursing Support; Long Term Care Re-Opening Plan, Visitation Plan and Support Person Plan; Updates on Recertification and Complaint Surveys, Regulation Updates including Waivers, Vaccination Updates; Strike Teams, Civil Monetary Penalty Report; State Health Operations Center (SHOC) Calls transferred to DHCQ; DHCQ and Industry Workforce Updates/Discussions; CNA Schools; Covid 19 Testing Guidance (Staff and Residents); National Guard CNA Training and Assignment to LTC facilities; Update on In Person Post Survey Meetings.
- Division of Medicaid and Medical Assistance – Long Term Care Medicaid Eligibility Unit updates; Open enrollment.
- Long Term Care Ombudsman Program – Updates on Facility Visits (both virtual and in person); Overview of Complaints received; Outreach activities, Training of Staff and Volunteers; Discharge Appeals; Visitation Guidelines; Covid Outbreaks; Staffing Changes.
- Brookside Clinical Laboratories, Inc. - PCR Covid 19 Testing; Antibody Testing; Common Infectious Diseases testing
- Medicaid Fraud Control Unit – Staffing Changes; Overview of data and statistics; Outreach and education initiatives during Covid 19.

- Delaware Health Care Facilities Association – Overview of long-term care staff vaccination rates; Covid 19 vaccination plans for staff and new residents; Staff turnover rates; Building Census; Barriers to retaining staff.
- NeuroBehavioral Health Program (Delaware Hospital for the Chronically Ill) – Overview of Program to include non-pharmacological tools to address challenging behaviors; Civil Monetary Penalty funded 3 year program from the long-term care residents trust fund.
- Public Comment was accepted at each meeting.

III. COVID-19 ACTIVITIES

DNHRQAC participated in numerous activities during the Covid 19 Pandemic. Some of those activities included, but were not limited to the following: State Health Operations Center meetings, Pandemic Resurgence Committee meetings, Skilled Nursing Facility Post-Acute Care Hospital Meetings, and Covid 19 Vaccine Committee meetings. In addition, the Commission engaged in discussions with various State Agencies, stakeholders and the long term care industry leaders about how to improve infection control practices, address workforce and staffing shortages, vaccine and testing of staff and residents, and overall quality of care. Further, DNHRQAC has participated in a variety of updates from CMS (webinars, teleconferences), Governor Carney’s Covid 19 Press Conferences and other educational opportunities aimed at addressing the Covid 19 pandemic.

As a result of DNHRQAC’s past and current participation in Covid 19 related committees and workgroups, DNHRQAC has identified gaps in services and several areas of opportunity to improve the quality of care in long term care facilities in Delaware which will inform our future advocacy efforts.

IV. JOINT LEGISLATIVE SUNSET AND OVERSIGHT COMMITTEE (JLOSC)

DNHRQAC was notified in June 2019 they were selected for JLOSC review. DNHRQAC Staff and Chair were instructed to complete a comprehensive report, attend mandatory meetings and supply supplemental documentation to JLOSC analysts. DNHRQAC was scheduled to testify before JLOSC - March 17, 2020. Due to Public Health Emergency declared by Governor Carney (March 12, 2020), DNHRQAC’s presentation was “on hold” until April 1, 2021. In the interim, DNHRQAC provided on-going updates to JLOSC: activities, membership changes, etc.

April 1, 2022, DNHRQAC provided testimony to JLOSC. The testimony included asking JLOSC for their assistance in assisting with strengthening the Commission: Additional staff, Create an Elder Caucus, remain under the Judicial Branch for unbiased oversight of several Departments within the Executive Branch.

JLOSC provided their recommendations during end of FY 21 legislative session. DNHRQAC & members of the public provided feedback regarding JLOSC recommendations, specifically around relocating this Commission elsewhere within state government; how a relocation would impact the delivery of services; the burden a move would make for an office of one, independent oversight of multiple other State agencies would be compromised (intent of why this Commission is located under Judicial Branch) and implications to current staff compensation/benefits.

HB 438 was introduced in June 2022. This Act is part of the Joint Legislative Oversight and Sunset Committee's ("JLOSC") review of the Delaware Nursing Home Residents Quality Assurance Commission ("DNHRQAC") and the recommendations that JLOSC approved during its review. This Act specifies the matters that DNHRQAC must include in its annual report, and makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

In regard to the “release” from review, that will occur with enactment of additional legislation to be introduced by the JLOSC on behalf of DNHRQAC. DNHRQAC anticipates an official release from review in FY23 after a second bill for the name change is introduced. JLOSC is no longer requiring DNHRQAC to complete any additional written reports or updates and DNHRQAC is no longer no required to appear before the JLOSC. We are still working on a path forward with the budget/admin responsibility recommendation approved by the Committee, and we hope to have a direction in the coming months.

V. LEGISLATION, REGULATION, GUIDANCE, EMERGENCY ORDER REVIEW & ADVOCACY EFFORTS

The Commission received notice of regulations and legislation effecting long-term care residents in the State of Delaware during 151th General Assembly. The following legislation was introduced by General Assembly Members during FY 21 & FY 22. Additional bill details can be found @ General Assembly’s Webpage: [Home - Delaware General Assembly](#).

Resolutions:

FY 2021 – None

FY 2022 – None

Concurrent Resolutions:

FY 21 – None

FY22 – HCR 110, HCR 94, HCR 20, SCR 113, SCR 102, SCR 76, SCR 62, SCR 48 and SCR 24.

Joint Resolutions:

FY 21 – None

FY 22 – HJR 7

Bills:

FY 21 – None

FY 22 – HB 442 w/HA1, HB 438 w/HA1, HB 424, HB 369 w/HA1, HB 334 w/HA1 +SA1, HB 280, HB 415, HB 140 and SB 118.

Regulations and Emergency Orders

During FY 21 & FY 22, there were multiple regulatory updates and emergency orders that impacted long term care facilities. For specifics, please visit Register of Regulations: [Past Issues of the Monthly Register of Regulations - Delaware Regulations - State of Delaware](#).

In addition, State of Emergency Orders and other Health and Social Services Departmental Orders (DHSS) impacted long term care facilities. For specifics, please visit: [COVID-19 Public Health Emergency - Governor John Carney - State of Delaware](#).

Long Term Care Guidance

Long Term Care guidance for Resident & staff regarding COVID19 testing, vaccinations, isolation, quarantine, Personal Protective Equipment (PPE), Infection Prevention, visitation, etc continued to evolve during FY 21 & FY 22. The Commission was involved with the changes at Federal and State level and often provided feedback to State Health Operations Center (SHOC) or DHSS. For specific details, please visit: [Long-Term Care Facilities - Delaware's Coronavirus Official Website](#).

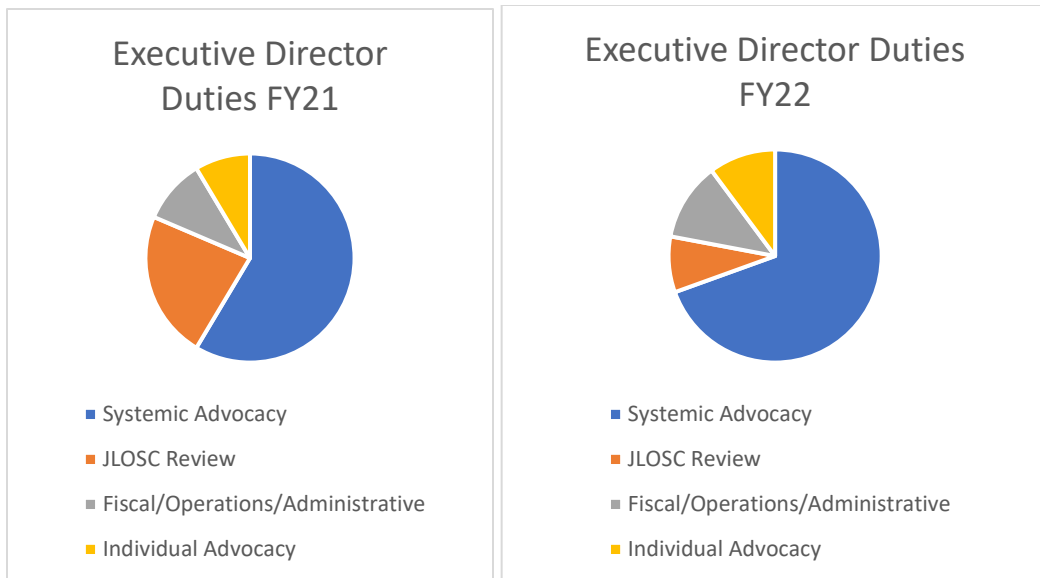
Advocacy Efforts

During FY 21 & FY 22, DNHRQAC participated in many advocacy efforts. These included, but not limited to: distributed DNHRQAC flyers throughout the State of Delaware; submitted commentary articles regarding World Elder Abuse Awareness Day (WEAAD), Residents Rights Month and Older Americans Month (see copy of articles); participated in on-going dialogue to DHSS Cabinet Secretary and other health and social service leadership (includes informal advocacy efforts through email); Outreach efforts to Congressional Delegates (see copy of letter); participated in calls with licensed facilities and multiple stakeholders; joined calls with Delaware hospitals; and attended in a limited number of virtual Post Survey Meetings (PSMs) in FY21 (due to Covid-19 restrictions) and 15 In-Person Post Survey Meetings in FY22.

VI. DNHRQAC STAFFING

Staff was hired in 2007 to assist the Commission, a non-judicial agency of the Delaware Courts. The staff member reports directly to DNHRQAC Chair and budgetary checks and balance is monitored by the Administrative Office of the Courts. Currently, staff consists of one full-time employee, Executive Director who:

- Provides DNHRQAC members with most recent Federal and/or State regulations/legislation or other materials regarding long term-care services and supports.
- Works with Administrative Office of the Courts to develop, coordinate and maintain the commission's operating budget.
- Attends budget hearings and represents DNHRQAC during workshops, conferences, etc. on behalf of the commission. Additionally, serves on committees, task forces and problem-solving groups.
- Participates in care plan meetings, post survey meetings, budget hearings and other on-site facility visits to gain insight regarding quality of life concerns. (such as events, celebrations, etc) .
- Acts as liaison with State agencies, organizations and stakeholders.
- Monitors and evaluates programs affecting the quality of care for residents in licensed long term-care/assisted living facilities in Delaware.
- Directs the daily operation of the Commission.
- Reviews theories, principles, laws and practices of health or human service programs and services to assist and improve quality of life for residents in long term care and assisted living facilities.
- Responds and interacts with residents, family members, state agencies, and others regarding quality of care and quality of life concerns for residents living in long-term care and assisted living facilities.
- Prepares ad hoc reports and other documents as needed.
- Organizes annual report for Governor and Delaware General Assembly members. Works closely with State Regulatory agencies, advocacy groups and others regarding quality of care and quality of life.
- Hosts bi-monthly open public meetings to address gaps in service, identify concerns and review laws/policies/guidelines regarding the quality of care.



VII. FACILITY VISITS

Due to restrictions and outbreaks during the COVID19 pandemic, DNHRQAC looked for ways to creatively connect with Residents, families and facilities to share information and lend assistance regarding quality of care. Often, family members and others contacted the Commission for assistance: phone, email, text, etc.

On-going distribution of DNHRQAC flyers were provided to Residents, family members and staff during Post Survey Meetings (PSMs), events and other opportunities.

VIII. OTHER DNHRQAC ACTIVITIES & ACCOMPLISHMENTS FY21/FY22

- Created Members Conflict Policy
- Updated Proxy Policy
- Created Facility Visit Rubric
- Provided onboarding orientation for new DNHRQAC members
- Ongoing conversations with State agencies, stakeholders and others

IX. FACING FORWARD: COMMISSION GOALS

The Commission has set forth the following goals in FY2023:

- Continue to review State agencies performance and coordination relating to delivery of services and supports in long term care facilities.
- 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 long term care staff and assist with developing qualified staff strategies.
- 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 long term care 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 and other emergencies related to LTC facilities.
- Create Sub-Committees to focus on Legislative Review, Advocacy, Annual Reports.
- Review and Comment on Federal and State Legislation, Emergency Orders, Regulations, Federal and State Guidance that affects quality of care in Skilled Nursing and Assisted Livings Facilities in Delaware.

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