
*Delaware Nursing Home Residents
Quality Assurance Commission*

DNHRQAC Meeting of July 11, 2023

9:30 a.m.

Virtually via Cisco Webex

Anchor Location: 20151 Office Circle Georgetown, DE 19947

FINAL

Commission member(s) present: Lisa Furber, DNHRQAC Chair; Cheryl Heiks; Tonya Burton, NHA; Norma Jones; Molly Crumley, RN, BSN, MBA; Dr. Melissa Winters, PsyD; Christopher Marques, Esquire; Mary Peterson, RN, BSN and Hooshang Shanehsaz, RPH. Ms. Furber and Ms. Peterson attended this meeting in-person @ the anchor location. The remainder of commission members and DAG attended this meeting using Cisco WebEx platform.

Commission members not in attendance: Senator Spiro Mantzavinos, Jennifer McLaughlin, Representative Kim Williams and Dr. Avani Virani.

Patrick J. Smith, Esquire was also present from Attorney General's Office (DAG assigned to represent the Commission).

Others Present: Margaret Bailey, DNHRQAC Executive Director; Sandra Hale, LTCOP; Denise Elliott, DHCQ; Meagan Glassner, LeadingAge; Rob Smith, DHCQ; Meggan Towns, DHCI; Karen Crowley, DHCQ; Kim Reed, DHCQ; Andi Wozney, DSAAPD; Colleen Yezek, DMMA; Meredith Newman, DE News Journal and Dayna Scott, DMMA. There were three unidentified individuals that attended this meeting by phone.

1. Approval of the meeting minutes:

Meeting minutes draft of May 23, 2023, were approved with minor revisions to language about hours per resident per day (HPRD) vs. staffing ratio, as discussed.

2. Discussion of:

DHCQ Updates

Several DHCQ staff members attended this meeting and shared an update relating to their duties within the Division.

Ms. Reed mentioned the Division's current staff vacancy rate is improving: 8% compliance nurses and 10% admin staff.

DHCQ continues to host Zoom meetings with Delaware long term care providers monthly to provide guidance updates, resources, etc.

Annual and Complaint Surveys: April – June 2023

Kim Reed, DHCQ Nursing Administrator, shared the following information with commission members during this time frame:

Nursing Homes/SNF

8 annual surveys
12 complaint investigations
3 follow-up
23 total surveys
110 investigated complaints

Assisted Living Facilities

4 annual surveys
5 complaint investigations
9 total surveys
35 investigated complaints

DHCQ began sending an electronic copy of closed & completed survey reports to DNHRQAC (effective 8/31/2022). The Division also posts closed survey results on their webpage: <https://dhss.delaware.gov/dhss/dhcq/surveyreports.html>.

Ms. Reed stated the top 10 most common Federal deficiencies cited to Delaware nursing homes during this time frame:

- F 884 – 9 citations regarding the reporting of information to National Healthcare Safety Network (NHSN).
- F 550 – 5 citations regarding resident’s rights (dignity related).
- F 609 – 5 citations regarding reporting abuse, neglect or mistreatment.
- F 677 – 5 citations regarding Activities of Daily Living (ADLs).
- F 657 – 4 citations regarding care plan timing and revision.
- F 684 – 4 citations regarding quality of care.
- F 812 – 4 citations regarding food procurement, store/prepare/serve - sanitary
- F 695 – 3 citations regarding respiratory care.
- F 756 - 3 citations regarding pharmacy review.
- F 758 – 3 citations regarding psychotropic meds.

2nd Qtr 2023 Staffing Report

Rob Smith, DHCQ Health Care Facilities Administrator, shared a copy of the 2nd Qtr 2023 Staff Report with commission members. Ms. Bailey will forward an electronic copy of the report to DNHRQAC members after the meeting.

Due to facility staffing shortages, DHCQ began increasing their involvement in nursing home staffing oversight - effective October 1, 2022. Note: The Staffing Report does not apply to licensed assisted living facilities.

Each licensed nursing home in Delaware is required to submit staffing levels at least quarterly, in addition to every time a survey is conducted by DHCQ.

If a staffing deficiency is identified, a deficiency report is issued and facility will be given an opportunity to correct said deficiency, by submitting a plan of correction. After DHCQ receives an acceptable plan of correction, a random staffing check is conducted to assess the facility’s compliance with staffing requirements.

If a facility is not in compliance, further action may be taken by DHCQ (ie Civil Monetary Penalty, which could be as much as \$1,000/day fine).

As a result, 2nd Qtr 2023 Staffing Report shows there was a total of 6 licensed nursing homes that were not in compliance for a day or more during this review period.

2nd Qtr 2023 Quality Assurance Review Team (QART) Report

Mr. Smith shared a copy of the 2nd Qtr 2023 QART Report with commission members. Ms. Bailey will forward an electronic copy of the report to commission members, after the meeting.

April 1, 2023 to June 30, 2023, QART reviewed 4 surveys (5 tags total) involving “G” level or higher deficiencies as recommended by surveyors during an inspection. After review, the QART Team upheld 4 of the “G” level citations involving:

F Tag 600 – Free from abuse and neglect. The facility failed to ensure that R1 was free from abuse. R1 stated that she was raped by a male the night of 4/8/23 and was transferred to the hospital for evaluation. Review of the hospital records revealed that R1 was harmed, as injuries sustained were consistent with sexual assault.

There was a robust discussion regarding this citation. DHCQ will forward a completed investigative report to the Commission. The Commission mentioned it may be beneficial to have a future discussion with Professional Regulations or others about pending (severe) allegations.

F Tag 689 - Free of Accident Hazards/Supervision/Devices - The facility failed to ensure that R1 was provided the necessary assistance to prevent an accident.

F Tag 760 - Significant Medication Errors - The facility failed to ensure that R51's care was free of significant medication errors. The facility failed to obtain and administer numerous doses of the drug, Erivedge, which was ordered to prevent further growth of cancer. R51's disease progressed while off the medication per the oncologist resulting in harm. In addition, the facility failed to order the correct route of Erivedge administration.

F Tag 689 - Free of Accident Hazards/Supervision/Devices - The facility failed to ensure that the residents' environment remained free of accident hazards. For R104, the facility failed to provide adequate supervision and appropriate care in accordance with professional standards of practice as evidenced by failure to adequately supervise and mitigate accidents when R104 fell out of bed while receiving care. This fall resulted in harm as R104 was transferred to the hospital and was subsequently diagnosed with a right hip fracture. For R221, the facility failed to ensure that the proper Hoyer lift sling was used to transfer the resident from a wheelchair to his bed during which time the resident fell, complained of pain and sustained harm with a left rib fracture.

F Tag 684 - Quality of Care - The facility failed to ensure that R370 receive adequate nursing care after R370 had an unwitnessed fall on 10/1/22. R370 didn't receive ongoing post fall assessments and pain management for injury/pain related to the fall until 10/4/22, three days later.

One of the “G” level citations during 2nd Qtr 2023 (F Tag 689 – Free of Accident Hazards/Supervision) was downgraded because QART Team felt “There was insufficient evidence to substantiate a facility deficient practice.”

Members of the Commission also asked about 1st Qtr 2023 “G” level citations (non-timely resuscitate and infection prevention for norovirus abatement) brought up during DNHRQAC

meeting of May 23, 2023. *DHCQ will forward the completed investigation report to the Commission.*

Civil Monetary Penalties (CMP)

Rob Smith provided testimony regarding State CMPs imposed during CY 22 & CY 23. The Federal and State government have the ability to impose CMPs, which is based on the severity of a deficient practice.

CY 2022: State imposed \$10k to a Delaware nursing home for elopement and \$2k to another nursing home for repeat staffing deficiency.

CY 2023 (thus far): State imposed CMPs to 3 nursing homes (\$5k, \$3k & \$1k) for repeat staffing deficiencies. In addition, State imposed CMPs to 2 assisted living facilities: \$10k for freedom from neglect and \$26k for multiple things (pressure ulcers, failure to report reportables, etc).

Federal CMPs also appear on Nursing Home Compare. Ms. Reed shared that Federal CMPs are currently frozen. The Feds are reorganizing a new plan and therefore these funds are in a holding pattern.

CMP Reinvestment Project are funds that can be reinvested to support activities that benefit nursing home residents. The purpose of the CMP Reinvestment Project is to improve quality of life by equipping nursing home staff, administrators and stakeholders with technical tools and assistance to enhance resident care.

The Division will let the Commission know when Federal CMP funds will become available for use (again).

“New” Background Check Center (BCC)

Use of the BCC, mandatory in 2013, is required for all employers that provided long term care services or supports within Delaware. DHCQ manages the database. BCC acts as a hub by drawing information from nine different sources of background information. Employers, when screening applicants for any type of position in long term care setting, can access this information from one source.

Karen Crowley, DHCQ Investigative Section Chief, mentioned the “new” BCC will go live in mid to late April 2024. There will be educational opportunities scheduled for facilities to familiarize themselves with the new system. In addition, Ms. Crowley will present to DNHRQAC as the new system is being rolled out.

Adult Abuse Registry (AAR)

Ms. Crowley also provided an overview of AAR, which is managed by DHCQ. AAR is a database which lists all persons in the State of Delaware who have a substantiated case of abuse, neglect, mistreatment, and/or financial exploitation in their backgrounds. State of Delaware law requires that all long-term care facilities check this Registry before hiring any new employee.

Only active listings appear on the registry. The cases that appear on the registry are only civil in nature.

Currently, there are 208 substantiated cases on Delaware's AAR, 76 individuals are on the registry for life. DHCQ has a team that determines placement guidelines. They review the egregiousness of the event. The typical amount of time for individuals on AAR - 5 years to life, if there is a pattern.

Certified Nursing Assistant (CNA) Schools

Denise Elliott, DHCQ Deputy Director, provided Delaware CY 22 CNA School information to commission members. Aleen Wilker, was not able to attend today's meeting. Ms. Wilker surveys the certified nursing assistant schools, completes CNA renewals, etc.

CY 2022: There were 30 active or approved schools. 4 of schools are no longer offering CNA Program (since approved in 2022). Ms. Elliott will forward specifics as to why the 4 schools are no longer are active.

CY 2022: Written and clinical pass rates = 77.8%.

Ms. Elliott will make sure the following is added to DHCQ's webpage: written & clinical test scores per CNA School/year and list of active/approved CNA Schools per year.

Ms. Peterson asked about the number of certification hours required for certified nursing assistants. *Ms. Elliott will forward current number of certification hours.*

3. Old Business/New Business

DNHRQAC Subcommittees - Ms. Furber urged commission members to begin thinking about which sub committees (legislative, advocacy, etc) would be most beneficial to carry out the mission of this commission. Discussion on this topic was tabled and will resume during the next scheduled meeting due to lack of quorum when this item was being discussed.

FY 24 Joint Finance Committee (JFC) Mark-up Hearing

Ms. Bailey mentioned during FY 24 JFC budget mark up (May 23 – 24, 2023), the committee approved waiving Eagle Law, nursing home staffing ratios specific to Delaware, until July 1, 2024. Additionally, JFC approved \$5M in appropriations for FY 24 to Delaware non-pediatric nursing homes.

Finally, JFC voted and approved a report to be conducted by Administrative Office of the Courts (AOC) within the Judicial Branch, regarding non-judicial agencies. DNHRQAC is a non-judicial agency. The report shall be submitted to Office of Management and Budget (OMB), Budget Development and Planning and JFC co-chairs no later than February 1, 2024.

4. Public Comment

There were no members of the public that wanted to share anything at this time.

5. Next DNHRQAC Meeting – To be determined. Ms. Furber will be sending an email to commission members regarding the next meeting. This meeting will be conducted via virtual platform and in-person anchor location: TBD.

6. Adjournment

This meeting was adjourned at 11:34 am by Lisa Furber.

Attachments: DNHRQAC Meeting of July 11, 2024 - agenda
DNHRQAC Meeting of May 23, 2023 - minutes draft
2nd Qtr 2023 Staffing Report
2nd Qtr 2023 QART Report