

---

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION  
Eagle's Law Staffing Ratio Waiver Subcommittee

In-person & Virtual Meeting

Cisco Webex

Anchor Location: The Vero @ Newark

924 Barksdale Rd Newark, DE 19711

**Meeting of March 14, 2024 @ 10:30 am**

FINAL

Subcommittee members present: Norma Jones, Cheryl Heiks, Mary Peterson, RN and Dr. Melissa Winters, PsyD. Subcommittee members attended virtually. A quorum of subcommittee members was present.

Subcommittee members not in attendance: Kori Bingaman, RN, NHA

Others Present: Margaret Bailey, DNHRQAC Executive Director (in-person), Lisa Furber, DNHRQAC Chair, Patrick Smith, Deputy Attorney General (DAG), Hooshang Shanehsaz, RPH & DNHRQAC member and Rob Smith, Division of Health Care Quality (DHCQ).

1. Call to order

This meeting was called to order at 10:32 am.

2. Approval of minutes

The subcommittee meeting minutes draft of March 1, 2024 were approved as written.

3. Discussion of:

Subcommittee members discussed the staffing ratio waiver (draft) form. Currently Delaware has 47 licensed nursing homes that could theoretically apply for a staffing ratio waiver effective July 1, 2024. This subcommittee plans to introduce the staffing ratio waiver draft to the full Commission during March 19, 2024 meeting and vote to finalize.

**Action Items:** Ms. Heiks suggested language & Delaware Code link regarding waiver "authority" should be added to the waiver instructions. **Subcommittee members agreed and will add language including DE Code link to the draft form.**

Subcommittee members also suggested page numbers be added to the staffing ratio waiver form. All subcommittee members were in agreement and **will add page numbers and date the waiver form was created.**

The Eagle's Law Staffing Ratio Subcommittee **will present the staffing ratio waiver draft during full Commission meeting of March 19, 2024 so members can vote to finalize the form.**

Staffing Ratio Waiver Process

Subcommittee members summarized what they envision will be the staffing ratio waiver process:

1. Waiver form will available/posted on DHCQ's webpage.
2. Delaware nursing homes requesting a staffing ratio waiver, after 7/1/2024, will complete "Section A" and forward to DHCQ: [dhss\\_dhcqstaffing@delaware.gov](mailto:dhss_dhcqstaffing@delaware.gov).

3. DHCQ will complete “Section B”, which has 4 questions, and forward form to DNHRQAC: [Eagleslawwaiver@delaware.gov](mailto:Eagleslawwaiver@delaware.gov).
4. DNHRQAC will approve or deny staffing ratio waiver request and let facility and DHCQ know the outcome of the staffing ratio waiver.

As a follow-up to last subcommittee meeting, Ms. Bailey reached out to DHCQ leadership with the following question:

*"After July 1, 2024, if a facility submits a staffing ratio waiver request, will DHCQ consider not writing the facility up for issues relating to the waiver just while the waiver decision is pending?"*

DHCQ's Response:

*"Yes, we could hold off citing a facility on the state level for not specifically meeting the staffing ratios while a waiver request is under consideration. Keep in mind, if we are on a survey and see other issues, there may be other citations. For example, if the facility failed to provide necessary care due to the lack of staffing."*

Ms. Heiks mentioned she believes a Federal Staffing Ratio Waiver will be forthcoming and therefore this subcommittee needs to be flexible.

**Action Item:** Ms. Heiks will forward information relating to a proposed Federal waiver to subcommittee members once she is able to locate it.

#### Waiver Document/Form

Subcommittee members discussed whether the staffing ratio waiver form should be a PDF or Word document that can be fillable (but locked so nothing can be altered).

The waiver form would be posted on DHCQ's webpage so facilities can easily access the form. Mr. Rob Smith did not see this as an issue.

**Action Item:** Once staffing ratio waiver form has been finalized, it will be posted on DHCQ's webpage.

#### Staffing Waiver Decision

Subcommittee members stressed the importance of relaying waiver “decisions” during DNHRQAC full Commission Meetings. Members however, mentioned concern about reviewing staffing ratio waivers during an open public meeting:

1. Timeliness – DNHRQAC full commission meetings are currently every other month. Subcommittee members do not want to delay the decision process as a result.
2. Open Public Meetings – Subcommittee members expressed concerns with discussing a facility's waiver request in an open public meeting of the full Commission. Members expressed that public comment should not be allowed if DNHRQAC has been tasked per DE Code with processing waivers. It also creates an awkward situation, especially if the facility whose waiver is being reviewed attends the meeting.
3. Quorum – What happens to waiver requests if there isn't a quorum during next full Commission meeting?

Mr. Patrick Smith, Esquire mentioned the subcommittee may want to consider asking full Commission to grant the subcommittee certain types of permission relating to the waivers.

Ms. Furber added this subcommittee may want to consider a legislative fix regarding staffing ratio waivers so applications can be processed without delay.

**Action Item:** Ms. Furber will research possible legislative fixes and report back to the subcommittee.

Staffing Ratio Waiver Form – Training/Education

Subcommittee members began discussing training/education regarding the staffing ratio waivers. They agreed to continue this discussion during the next meeting.

Mr. Rob Smith mentioned DHCQ (Office Manager) could send an email blast to all nursing home facilities so they will receive notice about the training/education relating to the waiver. Ms. Peterson suggested DHCQ may want to incorporate staffing ratio waiver training in the mandatory Director of Nursing (DON) Workshops.

Ms. Bailey suggested the Delaware Health Care Facilities Association (DHCFA) might want to consider emailing Nursing Home Administrators (NHA), Directors of Nursing (DON) and corporate folks about training details, once available.

**Action Item:** Mr. Rob Smith agreed that incorporating waiver training in mandatory DON Workshops and will share with DHCQ leadership.

Training/education ideas that were discussed included: Webinar and Live Virtual Sessions. Ms. Heiks mentioned on-line opportunities would make it easier for facility staff to participate.

Mr. Patrick Smith, Esquire offered to check with DHSS to see if they could provide technical assistance for training/education.

**Action Item:** Mr. Patrick Smith, Esquire will reach out to DHSS regarding training technical assistance and provide feedback to the subcommittee.

4. Public Comment

No members of the public were present.

4. Next Meeting

The next DNHRQAC Eagle’s Law Staffing Ratio Waiver Subcommittee will be held on March 26, 2024 @ 10:00 am. In-person and virtual attendance options will be available. The meeting information will also be posted on the Delaware Public Meeting Calendar.

5. Adjournment

The meeting was adjourned at 11:55 am.

Attachments: 3/14/2024 Eagle’s Law Staffing Ratio Waiver Subcommittee Meeting agenda  
3/1/2024 Eagle’s Law Staffing Ratio Waiver Subcommittee Meeting minutes draft  
Waiver (draft)