
*Delaware Nursing Home Residents
Quality Assurance Commission*

DNHRQAC Meeting of March 19, 2024

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; Kori Bingaman, RN, NHA; Norma Jones; Christopher Marques, Esquire; Senator Spiros Mantzavinos; Mary Peterson, RN, BSN; Hooshang Shanehsaz, RPH; Jennifer McLaughlin, OT; Dr. Avani Virani and Dr. Melissa Winters, PsyD. Deputy Attorney General (DAG) Patrick Smith, Esquire was also in attendance.

Ms. Furber, Ms. Peterson and a member of the public attended the meeting in-person @ the anchor location. The remainder of meeting participants attended virtually or by phone.

Commission members not in attendance: Representative Eric Morrison.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Sean Dwyer, DE Valley Chapter Alzheimer's Assoc; Kevin Andrews, Public; Corinna Getchell, DHCQ; Rob Smith, DHCQ; Denise Elliott, DHCQ; Kim Reed, DHCQ; Sherry Armstrong Kerns, DHCQ; Antoinette Johnson, CLASI (in-person); Jen Silvestri, Public; Amy Levin, LTCOP; Harry Palmer, DHCI; Angela May, Public; Jim McCracken, LeadingAge; Saundra Hale, LTCOP; Tawyna Dennis, Loftland Park; Brandon Williams, Delaware Senate; Paul Smiley, Gilpin Hall; Bill Gadola, LTCOP; Christina Bryan, Delaware Healthcare Assoc; Karen Hurst, Polaris, Valeria Coverdale, DE House of Representatives and Keri McQueerley, Public. Five individuals attended by phone and were not able to be identified.

1. Call to Order & Introductions

Commission members introduced themselves. Ms. Furber read the mission of DNHRQAC and virtual meeting rules. The meeting began at 9:32 am.

2. Approval of the meeting minutes

Meeting minutes draft of February 13, 2024 were approved with one minor correction.

3. Vote on Eagle's Law Staffing Ratio Suspension & Waiver Form

Suspension of staffing ratios per shift

There was a motion raised to oppose any further waiver of nursing home staffing ratios per shift beyond June 30, 2024. Commission member roll call results – 11 yes, 1 no and 1 abstain.

Additionally, a letter was shared with DNHRQAC members for DHSS Cabinet Secretary Manning and Joint Finance Committee Members (JFC) to encourage them not to continue suspending nursing home staffing ratios per shift beyond June 30, 2024.

A motion to request information from DHCQ to see whether Delaware nursing homes are currently meeting ratios per shift. Commission members roll call results – 11 yes, no opposed, no abstain. There was a discussion about the feasibility of obtaining this information quickly and potential impact on process timeline.

Action Item – Ms. Bailey will reach out to DHCQ regarding staffing data per shift.

Ms. Bingaman mentioned facilities must submit staffing information in the Payroll Based Journal (PBJ) Report every quarter. Section 6106 of the Affordable Care Act (ACA) requires facilities to electronically submit direct care staffing information (including agency and contract staff) based on payroll and other auditable data. The data, when combined with census information, can then be used to report on the level of

staff in each nursing home, as well as employee turnover and tenure, which can impact the quality of care delivered.

CMS developed a system for facilities to submit staffing information – Payroll Based Journal (PBJ). This system allows staffing information to be collected on a regular and more frequent basis than previously collected. It is auditable to ensure accuracy. All long-term care facilities have access to this system at no cost.

Eagle’s Law Staffing Ratio Waiver Form draft

The Eagle’s Law Staffing Ratio Waiver Subcommittee provided an update to the full Commission. The waiver form draft was presented to the group. The goal is to begin implementing the waiver form/process effective July 1, 2024. There will be an educational component (virtual platform for greater participation), so facilities are able to become familiar with the waiver form. Additionally, an instructional guide is also included and explains the form more thoroughly. Finally, there is a FAQ page that accompanies the waiver form. DHCQ has offered to post the form on their webpage.

A facility interested in applying for a staffing ratio waiver would complete section “A” on the form. Facility will then send form to DHCQ. DHCQ will complete section “B” (4 - 5 questions) within 5 working days. DHCQ will then send form to DNHRQAC who will have 10 working days to complete review & determine whether to approve waiver request.

DHCQ assured this subcommittee that facilities who submit a waiver request will not be disciplined for not meeting waiver requirements in DE Code while waiver request is under consideration:

“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.”

Senator Mantzavinos asked if family members would be notified if facility has applied or is being considered for a staffing ratio waiver. The subcommittee will discuss this question further during the next subcommittee meeting. Ms. Peterson mentioned this subcommittee will be providing waiver data during the DNHRQAC full public meetings.

Mr. Marques believes DNHRQAC Deputy Attorney General (DAG) could provide clarity about:

- whether waiver would be deemed as public record
- if waiver decision session would fall under executive session instead of open public meeting law

There was mention also about special exceptions noted in DE Code relating to health and safety vs public meeting laws.

A motion was raised to approve waiver form draft with suggested edits: add page numbers, add title 16 link, change contact info to overarching positions not specific individuals, and fix “date” typo. Commission member roll call results: 10 yes, 0 no, 0 abstain.

4. Vote on (3) Legislative Letters – Testimony

DNHRQAC Legislative/Advocacy Subcommittee shared (3) draft letters with the full commission. The purpose of the letters is to support, oppose or make suggested edits to legislation that impacts long term care. This item was tabled due to time constraints. This item will be brought forward to the full commission during a future meeting.

5. Vote on Volunteers

This item was tabled due to time constraints. This item will be brought forward to the full commission during a future meeting.

6. Vote on DNHRQAC By-Laws

Commission members received a draft of the proposed by-laws. Due to time constraints, this item was not voted upon. Mr. Marques, Esquire offered to review draft and provide feedback. This item will be brought forward to the full commission during a future meeting.

7. Discussion of:

Division of Health Care Quality

Rob Smith, Health Care Facilities Administrator, provided Division updates to commission members.

Currently, there are 11 staff vacancies throughout the Division, which includes Office of Long-Term Care Residents Protection, Investigation and Office of Health Facilities Licensing and Certification units.

During 1st Qtr 2024 (Jan 1 – March 15) the number of annual and complaint surveys:

Nursing Homes

Annual surveys – 17 (7 by HMS)
Complaint surveys – 18
Follow-up surveys – 7
of complaints investigated – 261

Assisted Living

Annual surveys – 7
Complaint surveys – 7
Follow-up surveys – 0
of complaints investigated – 79

DHCQ conducts nursing home surveys for CMS to determine whether facilities are complying with Federal requirements. The Division hired Health Management Solutions (HMS) to conduct Delaware nursing home surveys due to vacancies within the Division. The HMS contract is due to expire in September 2024.

Complaint Backlog (as of March 19, 2024):

Nursing Homes – 436
Assisted Living Facilities – 642

*DHCQ received 123 nursing home and 55 assisted living facility complaints during 1st Qtr 2024 (Jan 1 – March 15).

Top Five Citations of current nursing home surveys:

F812 – Food procurement, store/prepare/serve/sanitary
F657 – Care plan timing and revision
F656 – Develop/implement comprehensive care plan
F684 – Quality of care
F695 – Respiratory/tracheostomy care and suctioning

Fingerprinting

Paper and ink fingerprinting is available at DHCQ Newark and Adams State Service Center in Georgetown. During 1st Qtr 2024, 89 individuals were fingerprinted at Newark location and 10 individuals at Georgetown location.

Criminal Background Check Center (BCC)

Ms. Getchell mentioned the new BCC has been pushed back to fall 2024.

8. Old Business/New Business

None at this time

9. Public Comment

Five members of the public provided shared comments: Jim McCracken, LeadingAge of NJ/DE; Keri McQueeney, CNA; Paul Smiley, DHCFA board member and Gilpin Hall; Kevin Andrews, Public; and Tawyna Dennis, DHCFA board member and Loftland Park.

Public comments included concerns about LTC staffing and need to ensure facilities can meet staffing requirements before implementing any new legislation. Additionally, a concern was raised about the lack of waiver options for nursing homes experiencing outbreaks and a suggestion was made to add a short-term waiver for staffing ratios during outbreak. Also, emphasis was placed on the importance of quality of care and outcomes in nursing homes. It was stated that staffing ratios alone do not determine the quality of care. Finally, a long-term care employee shared her experience with current insufficient staffing ratios and urged better communication & educational awareness about minimum staffing requirements and resident acuity factors.

DNHRQAC Meeting Schedule

Ms. Furber asked commission members to look for an email regarding the next couple of months and DNHRQAC meeting schedule. Additional full commission meetings will be added in April and June – Friday April 19, 2024 @ 9:30 am and Friday June 14, 2024 @ 9:30 am. Both additional meetings will be 1.5 hours. There is also a meeting Tuesday May 21, 2024 @ 9:30 am.

10. Next DNHRQAC Meeting – TBD. This meeting will be conducted via virtual platform and in-person anchor location. Details will be available on the Delaware Public Meeting Calendar.

11. Adjournment

This meeting was adjourned at 11:28 am by Lisa Furber.

Attachments: DNHRQAC Meeting of March 19, 2024 – meeting agenda
DNHRQAC Meeting of February 13, 2024 – meeting minutes draft
DHCQ PowerPoint presentation
Eagle’s Law Staffing Ratio Waiver - draft
DNHRQAC By-Laws - draft
Letter to DHSS Cabinet Secretary Manning
(3) Legislative Letters – support, oppose, edits
Subcommittee final meeting minutes since last full DNHRQAC Meeting