
*Delaware Nursing Home Residents
Quality Assurance Commission*

DNHRQAC Meeting of April 19, 2024

9:30 a.m.

Virtually via Cisco Webex

Anchor Location: CLASI - 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.

Ms. Furber and Ms. Peterson attended this meeting in-person @ the anchor location. The remainder of meeting participants attended virtually or by phone. A quorum of commission members was present.

Commission members not in attendance: Representative Eric Morrison and newly appointed member, Brian Frazee. Deputy Attorney General (DAG) Patrick Smith, Esquire was also not in attendance.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Kevin Andrews, Public; Corinna Getchell, DHCQ; Rob Smith, DHCQ; Denise Elliott, DHCQ; Kim Reed, DHCQ; Brandon Williams, Delaware Senate; RuthAnn Landers, Public and “Vasseko”, unidentified.

1. Call to Order & Introductions

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

2. Approval of the meeting minutes

Meeting minutes draft of March 19, 2024 were approved with a minor edit.

3. Vote on use of Volunteers

This item was not voted on at this time. Instead, commission members discussed the use of volunteers.

Ms. Furber asked commission members whether it would be helpful for volunteers to assist with tasks and wondered if this is permissible under DE Code relating to boards/commissions. If so, she wondered if the use of volunteers could be memorialized in DNHRQAC By-Laws; Orientation conducted; Conflict of Interest and Confidentiality signed-off and updates could be provided during future meetings. Ms., Furber mentioned she does not envision any volunteers would be a voting member but could possibly assist the Commission with certain tasks.

Mr. Marques mentioned he has some concerns about the volunteer process and suggested the Department of Justice could provide more specific guidance. There was mention during this meeting about DNHRQAC’s request for additional funds in FY 25 during the State’s budgetary process - Administrative Specialist and Data Analyst position.

Action Item: Ms. Furber will forward questions to DNHRQAC Deputy Attorney General (DAG) Patrick Smith, Esquire and share feedback with the full Commission.

4. Discussion of:

1st Qtr 2024 Quarterly Assurance Review Team (QART) Report

Rob Smith, Division of Health Care Quality (DHCQ) Health Care Facilities Administrator, provided details of the report to commission members.

During 1st Qtr 2024 (Jan 1 – March 30) the Quality Assurance Review Team (QART) reviewed 8 survey reports which contained 11 “G” level or higher (actual harm) deficiencies cited by survey team.

After review, QART Team downgraded 1 citation to a “D” level because the team could not establish whether the deficiency was due to the resident’s other health issues and treatments/medications or facility was not monitoring hydration that caused harm.

The ”G” level deficiencies cited during 1st Qtr 2024 included:

F689 (x3 facilities) – Free from Accident Hazards/Supervision/Devises
F600 (x3 facilities) – Free from Abuse and Neglect
F684 – Quality of Care
F690 – Bowel/Bladder Incontinence, Catheter, UTI Respiratory Care
F692 – Nutrition/Hydration Status (downgraded to “D”)
F760 – Resident free of Significant Medication Errors
F660 – Discharging Process

A copy of the 1st Qtr 2024 QART Report was forwarded to commission members prior to the meeting and shared during the meeting, too. There was a typo on the report and therefore the Division will correct & send an updated report to the Commission. Ms. Bailey will forward updated report to the full Commission upon receipt.

Several questions/concerns were raised by commission members relating to results outlined in 1st Qtr 2024 Report: actual harm vs downgraded level cited; past non-compliance with abatements; wandering not reported by facility yet discovered during survey; sexual abuse to resident by staff CNA; safe vs unsafe lithium level and not adhering to physician’s orders for monitoring; securing residents in wheelchairs during transport; and repeated acts of physical violence with other residents (resident to resident).

Ms. Getchell shared there are several remedies listed in Delaware Code that can be implemented based on history/severity of deficiencies found during inspections. She mentioned that DHCQ has done things such as weekly calls with the provider and/or requiring a monitor to be located at the facility for deficient practices cited during a survey. If a monitor is required, the facility is responsible for all costs.

Additionally, Ms. Getchell mentioned that some facilities have hired a consultant to help them work on results from their last survey. If this occurs, the facility is responsible for all costs.

Some of the questions raised about the citations/deficiencies were answered during the meeting and DHCQ said they would follow-up afterwards with DNHRQAC to provide more information relating to their unanswered questions, too.

1st Qtr 2024 Staffing Report

Mr. Smith provided 1st Qtr 2024 Staffing Report to the Commission. Commission members were advised the report now has a new format.

Also, DNHRQAC was advised that DHCQ resumed collecting staffing ratio per shift data (starting 2nd Qtr 2024) for all nursing homes. This information has not been collected since the start of the Covid pandemic.

After desk audit review for 1st Qtr 2024 relating to Delaware licensed nursing homes, the data in the report is as follows (3.28 HPRD is required per Eagle’s Law):

Privately owned/operated facilities - 3.70 HPRD
State owned/operated facilities – 7.33 HPRD
Exceptional Care for Children – 11.38 HPRD

There were 8 private facilities that were not in compliance with staffing requirements, for a day or more, during this time frame. Three facilities in particular were identified by DHCQ as having staffing challenges during 1st Qtr 2024.

Ms. Getchell shared there are several remedies listed in Delaware Code that can be implemented based on history/severity, but nothing specific to remedies regarding staffing. There are civil monetary penalties that can be imposed for facilities not meeting 3.28 HPRD.

Members asked DHCQ about facilities that might be admitting residents despite inadequate staffing. This question was also raised during the last Staffing Model Subcommittee Meeting (March 2024).

Multiple questions were raised by Commission members regarding this quarterly report. Members were asked to forward additional questions to Ms. Bailey, who in return will send to DHCQ for a response.

Future Consideration: DNHRQAC to consider looking at DE Code relating to staffing or other remedies?

5. Old Business/New Business

Updates on DNHRQAC Subcommittees

DNHRQAC Legislative/Advocacy Subcommittee:

Subcommittee members shared generic letters relating to legislation. The generic letters were sent to full Commission prior to this meeting: support, oppose or ok with edits. The letters were brought forth via a motion and seconded to poll members. Full commission voted on the generic letters: 2 members abstained and 8 remaining members in attendance approved – vote carries.

Motion was brought forward to approve comments as written (& sent to DNHRQAC members in advance of meeting) for the following recent legislation:

SB 215 w/SA 1 & SA 2 (Survey's) – vote carries as 2 members abstained and 8 members voted “yes.”

SB 216 (Civil Monetary Penalties) – vote carries as 3 members abstained and 7 members voted “yes.”

Senator Mantzavinos mentioned this bill was passed yesterday in the Senate.

SB 217 (Education) – vote carries as 2 members abstained and 8 members voted “yes.”

There was a minor typo in SB 217 that was corrected – “o” to “to.”

Senator Mantzavinos mentioned SB 217 has not been heard in Committee, as it was sent to finance for fiscal note.

Action Item: Ms. Bailey will forward approved letters regarding SB 215, 216 and 217 to Delaware Senate/House.

Staffing Model Subcommittee:

Subcommittee members reminded full commission of letter approved by full commission during March 19, 2024 meeting to DHSS Secretary Manning to not support any further staffing ratio waiver beyond June 30, 2024. The letter was sent to DHSS Secretary and Joint Finance Committee (JFC) members last month. The letter also extended an offer for Sec. Manning to join a future DNHRQAC Meeting, too.

This subcommittee suggests discussions continue regarding workforce related issues and career ladder opportunities. Also, the group shared loan options in long term care might be something to explore in the future, too.

Eagle's Law Staffing Ratio Subcommittee:

Subcommittee members provided an update on their progress including finalizing a PowerPoint presentation and seeking volunteer Skilled Nursing Facilities (SNF) to participate in educational trial/dry

run. Ms. Furber has been the point of contact with voluntary facilities participating in the trial/test run via Zoom.

A question was raised during March 19, 2024 full DNHRQAC Meeting by Senator Mantzavinos relating to transparency and family notification relating to waivers.

There is a need for formal notification to families and residents regarding staffing waivers that have been granted. There also need to be conditions spelled out in the waiver that ensure accountability and incentivize improvement.

Senator Mantzavinos asked whether waiver results could be posted and wants to make sure this is in line with the Administrative Procedures Act. Ms. Furber mentioned at minimum, she envisions the waiver results could be shared during full Commission meetings.

Action item: Ms. Furber will check with DNHRQAC Deputy Attorney General (DAG) Patrick Smith, Esquire, and circle back to full Commission regarding answers to legal and statutory posting rules for facilities not meeting Eagle's Law.

This subcommittee is recommending the use of a smaller subgroup to review and approve/deny use of staffing ratio waiver requests. There are time sensitivity concerns with having waiver reviews processed during an open public meeting as meetings need to be posted on Delaware Public Meeting Calendar several days in advance, which would delay processing the waiver requests.

Action Item: Ms. Furber offered to raise the question about timeliness of waiver (decision) meetings to DNHRQAC Deputy Attorney General (DAG) Patrick Smith, Esquire and send his feedback to full Commission.

6. Public Comment

Mr. Kevin Andrews provided public comment and reiterated the importance of a formalize notification to residents and families relating to a staffing ratio waiver.

7. Next DNHRQAC Meeting – May 21, 2024 @ 9:30 am. This meeting will be conducted via virtual platform and in-person anchor location. Details will be forwarded to commission members & available on the Delaware Public Meeting Calendar.

8. Adjournment

This meeting was adjourned at 11:17 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) Generic legislative Letters – support, oppose, edits
Subcommittee final meeting minutes since last full DNHRQAC Meeting