
*Delaware Nursing Home Residents
Quality Assurance Commission*

DNHRQAC Meeting of July 16, 2024

9:30 a.m.

Virtually via Cisco Webex

Anchor Location: Milford Place

500 S. DuPont Blvd Milford, DE 19963

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; Representative Eric Morrison and Dr. Melissa Winters, PsyD.

Deputy Attorney General (DAG) Patrick Smith, Esquire was also in attendance.

Ms. Furber and Ms. Peterson attended in-person @ the anchor location. The remainder of meeting participants attended virtually or by phone. A quorum of commission members was not present during voting moments and therefore members were not able to vote on any items during this meeting.

Commission members not in attendance: Hooshang Shanehsaz, RPH; Jennifer McLaughlin, OT; Dr. Avani Virani and Brian Frazee.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Rob Smith, DHCQ; Corinna Getchell, DHCQ; Denise Elliott, DHCQ; Karen Crowley, DHCQ; Kim Reed, DHCQ; Sherry Armstrong-Kerns, DHCQ; Angela May, LTCOP; Saundra Hale, LTCOP; Annette Moore, Moorings at Lewis; Harry Palmer, DHCI; Sean Dwyer, DE Valley Chapter Alz. Assoc; Staci Marvel, DMMA; Tawyna Dennis, Loftland Park Center; Kevin Andrews, Public; Amanda Kulhanek, DHCQ; Isabella Haigney, Public and Jim McCracken, LeadingAge. One individual that attended by phone was not able to be identified.

1. Call to Order & Introductions

The meeting was called to order at 9:32 am.

2. Approval of the meeting minutes

Meeting minutes draft of June 14, 2024 was not voted upon due to lack of quorum.

3. Discussion of:

Medicaid Fraud Control Unit (MFCU)

Chris Marques, MFCU Deputy Director, provided history, purpose and performance updates to the Commission.

MFCU is located within the Delaware Department of Justice. There are 18 staff members who are responsible for investigating, indicting and convicting cases involving Medicaid Fraud (civil or criminal); Patient Abuse, Neglect or Mistreatment (criminal) and Financial Exploitation. The Unit staff includes prosecutors, investigators, auditors, nurses and administrative specialists.

Additionally, the Unit is involved with civil settlements and judgements & criminal recoveries to recoup monies as a result of fraud or financial misconducts. A major settlement against Christiana Care Health Systems returned a net \$7.6 M to the Medicaid Program.

The Unit is funded 75% by US Dept of Health and Human Services Grant and totals a little over \$2M. The remaining 25% is funded by the State of Delaware @ roughly \$727K.

Referral Data:

CY 24 (as of 7/12/2024):

	Number of Referrals	Number of cases opened
Abuse/Neglect	130	28
Fraud	64	8

CY 23:

	Number of Referrals	Number of cases opened
Abuse/Neglect	287	61
Fraud	84	25

CY 22:

	Number of Referrals	Number of cases opened
Abuse/Neglect	223	52
Fraud	122	63

Investigations, Indictments and Convictions per year:

CY 23:

Investigations	Indictments	Convictions
257	26	15

CY 22:

Investigations	Indictments	Convictions
292	17	19

CY 21:

Investigations	Indictments	Convictions
527	10	9

Mr. Marques mentioned most of the abuse/neglect cases are referred to MFCU by other State agencies such as Division of Developmental Disabilities Services (DDDS) and Division of Health Care Quality (DHCQ). He also stated many fraud cases are referred by Managed Care Organizations (MCOs), however private citizens also submit referrals to the Unit.

Ms. Heiks wondered if there was a way to warn facilities or others if someone has a pending disciplinary action or fraud/abuse case in process. Mr. Marques added that individuals are innocent until proven guilty.

Ms. Getchell mentioned service letters are still required by statute. The Delaware Department of Labor has enforcement authority through the use of civil monetary penalties (CMP).

MFCU conducted the following outreach/training:

- Abuse, Neglect Mistreatment, Financial Exploitation, Drug Diversion and Reporting Requirements to licensed long term care facility providers and colleges.
- Referral Process for State agencies such as Division of Medicaid and Medical Assistance (DMMA) to develop for MCO partners.
- Prescription Drug Takeback.

On-going and future MFCU initiatives:

- Law Enforcement Training
- Program Recommendations
- Prevention of Harm Through Education
- Proactive Coordination to Stop Fraud, Waste and Abuse
- Increase Interdepartmental Coordination

MFCU contact information: Healthcare Provider Fraud Hotline – 302.577.5000 or MFCU Online Complaint Form – <https://attorneygeneral.delaware.gov/medicaid-fraud-complaint-form/>.

Division of Health Care Quality Updates

Corinna Getchell, DHCQ Director, provided updates to the Commission. There are currently several vacancies (11) within DHCQ and efforts are being made to fill the positions quickly.

The Wellsky System (portal) update is progressing well and will replace the outdated intake and complaint system currently used by the Division.

Manual Fingerprinting at Newark and Georgetown DHCQ locations – The Newark Office is utilized quite a bit and appointments are necessary. The Georgetown Office hours have recently been decreased because there hasn't been a lot of activity. Anyone can utilize the manual fingerprinting service. It's not just for long term care facilities.

During 2nd Qtr 2024, DHCQ conducted the following number of facility inspections and complaints surveys:

NH's - 12 annual (1 by contractor), 17 complaint surveys (1 by contractor) & 6 follow-up surveys = 35
AL's - 6 annual and 8 complaint surveys = 14. None were performed by contractor.

DHCQ received the following number of complaints during 2nd Qtr 2024:

NH's - 162
AL's – 133

Top 5 citations during 2nd Qtr 2024:

Nursing Homes (per Federal Tags)

F812 – Food Procurement/Store/Serve/Prepare/Sanitary
F656 – Develop/Implement Comprehensive Care Plan
F657 – Care Plan Timing and Revision
F695 – Respiratory/Tracheostomy Care and Suctioning
F880 – Infection Prevention and Control

Assisted Living Facilities (per DE Regulations)

8.0 - Medication Management
7.0 - Specialized Care for Memory Impairment
11.0 - Resident Assessment
13.0 - Service Agreement
12.0 - Services

CY 23 Civil Monetary Penalties (CMP) - Federal & State

Rob Smith, DHCQ Licensing Administrator, provided updates to the Commission regarding CY 23 Federal and State imposed CMPs. The State CMP monies go into the Resident Trust Fund. 2 facilities recently applied for CMPs. The applications are pending.

A total of \$1,112,162 was imposed by Centers for Medicare and Medicaid Services (CMS) in CY 23 for 11 SNFs. This included monetary sanctions involving non-compliance and immediate jeopardy situations.

A total of \$118,500 was imposed by State of Delaware in CY 24 for 6 SNFs. This included monetary sanctions involving non-compliance, which included situations involving insufficient staffing.

Other State Imposed Enforcement – Monitoring, ban on admissions and a provisional license were also sanctioned by the State of Delaware for 2 Delaware SNFs because of deficient practices.

2nd Qtr 24 Quality Assurance Review Team (QART) Report

Rob Smith, DHCQ Licensing Administrator, provided updates to the Commission. The scope and severity are two factors considered when determining the level of deficient practice. After review, QART upheld 8 deficiencies identified in 2nd Qtr 2024 for 5 skilled nursing facilities:

- F684 Quality of Care (“J”)
- F689 Free from Accident Hazards/Supervision/Devises (“G”) x 2
- F689 Free from Accident Hazards/Supervision/Devises (“J”) x2
- F686 Treatment/Services to Prevent Heal Pressure Ulcer (“G”)
- F690 Bowel/Bladder Incontinence, Catheter, UTI Respiratory Care (“G”)
- F692 Nutrition/Hydration Status (“G”)

Mr. Smith provided an explanation of the deficiencies and a discussion occurred because of the deficient findings. A copy of the report was forwarded to commission members in advance of the meeting.

A discussion occurred around categorizing certain deficiencies as immediate jeopardy or harm. Commission members asked DHCQ to provide information about what would be considered significant non-compliance. Assisted living facility deficiencies were also discussed relating to non-compliance and fines imposed regarding abuse, neglect, mistreatment and medication issues.

In the future, DHCQ will include links to the survey reports with the QART Report, so commission members have access to the information and how the deficient practice level was determined.

2nd Qtr 24 SNF Staffing Tracker

Rob Smith, DHCQ Licensing Administrator, provided updates to the Commission during 2nd Qtr 2024. DHCQ tracks the Hours Per Resident Per Day (HPRD) for every Delaware nursing home. The average HPRD in 2nd Qtr 2024 are as follows:

- Privately Owned Facilities – 3.82 HPRD
- State Operated Facilities – 7.83 HPRD

During 2nd Qtr 2024, Seaford Center and Cadia Renaissance did not meet the required staffing level of 3.28 hours per resident per day on certain days, as mandated by State law. It was pointed out that Seaford Center has repeatedly been understaffed and no enforcement action has been taken by DHCQ.

Staffing Ratios per Shift

DHCQ began collecting staff to resident data for statistical purposes in 2nd Qtr 2024 but is not enforcing until 1/1/2025.

Prior to the pandemic, most Delaware nursing homes used Phase 2 of Eagle’s Law for staffing purposes: [Delaware Code Online](#):

	<u>Phase 2</u>	
	RN/LPN	CNA
Day	1:15	1:8
Evening	1:23	1:10
Night	1:40	1:20

A copy of the 2nd Qtr 2024 RN/LPN and CNA staffing ratios per shift report was forwarded to commission members in advance of the meeting. Mr. Smith mentioned SNFs are struggling to obtain staff mostly during the day shift.

Ms. Peterson asked if DHCQ could move Country Rest Home data to another section of the report since they are licensed as an intermediate care facility and have different staffing ratio requirements.

Exigent Circumstances

Rob Smith provided stats relating to 1st & 2nd Qtr 2024 Exigent Circumstance forms received by the Division.

1st Qtr 2024 – 3 facilities submitted Exigent Circumstance forms due to use of agency RN Supervisor and ADON on day shift due to staff call outs.

2nd Qtr 2024 – The same 3 facilities submitted Exigent Circumstance forms due to use of agency RN Supervisor and ADON on multiple shifts due to staff call outs.

CY 23 Adult Abuse Registry (AAR)

Karen Crowley, DHCQ Chief Investigator, provided updates to the Commission regarding the AAR. The Division has seen an increase in cases related to financial exploitation, emotional abuse and neglect. The AAR Placement Committee meets monthly, next meeting on July 29, 2024.

of individuals added to the Adult Abuse Registry:

CY 24 (as of 7/15/2024) – 34

CY 23 - 52

CY22- 54

CY 21 – 34

Ms. Crowley mentioned 217 cases have been substantiated, 84 individuals are on the registry for life and 36 individuals have requested a hearing.

Criminal Background Check Center (BCC)

Ms. Crowley provided an update to commission members regarding BCC. The go-live date for the new BCC has been pushed back to Spring 2025 due to dependencies outside of their control (wrap back process which is part of DELJIS).

Commission members discussed advocacy efforts relating to the BCC project and outreach to General Assembly members to help make this a “high” priority.

Action Item: Commission members to consider writing a letter to the State and General Assembly members to prioritize the new BCC project.

4. Old/New Business

DNHROAC FY 25 Operating Budget and Epilogue Language (SB 325 & SB 327)

FY 25 DNHROAC Operating Budget

FY 25 Operating Budget (SB 325) was shared with Commission members. This budget went into effect on July 1, 2024. A spreadsheet was forwarded to Commission members in advance of the meeting which outlined FY 25 budget:

<u>Operating Budget</u>	<u>Amount</u>	<u>Note</u>
Personnel and OEC	\$189,400	\$93,800 are new funds & \$1,800 higher than FY 24
One-Time – Grant In Aid	\$15,000	Equipment
Contractual	\$1,500	
Supplies	\$1,000	
Travel	<u>\$2,000</u>	
Total	\$208,500	

*” We were advised the \$93,800 personnel funds are to cover 9-month costs for the FT Admin Specialist (paygrade 13) and casual seasonal Data Analyst (paygrade 13)” stated Ms. Furber.

SB 325 Epilogue Language: Section 46 – Section 1 of this Act makes an appropriation to Judicial, Administrative Office of the Courts – Non-Judicial Services, to fund 2.0 FTEs and associated operating costs. These positions, including any casual/seasonal positions, shall report to the commission.

SB 327 One-Time Grant In Aid Epilogue Language: Section 35. Amend Section 1 of FY One-Time Supplemental Appropriations Act (SB 326 of 152nd GA) by making deletion as shown by strike through and insertions as shown as follows: (h) On page 1 after line 8, the following: “(02-18-07) Equipment \$15,000.”

FY 26 DNHRQAC Operating Budget

Ms. Furber mentioned the contractual, supply and travel budget lines have not been increased in a long time. Mr. Marques added the Commission may want to consider asking for funds relating to coding licenses such as Tableau, which are about \$1,800 to assist the data analyst position.

There was discussion about whether commission members would like to request any funding considerations in FY 26 for things such as a database, convert casual seasonal data analyst position to full-time or fund a facilitated strategic planning meeting. Commission members were asked to share their ideas with Lisa Furber, DNHRQAC Chair.

It was also mentioned the full-time “new” staff position(s) would need to be annualized to 12 months in FY 26 Operating Budget. The FY 25 Operating Budget only covers 9-month personnel costs for the “new” staff positions.

Ms. Peterson made a motion to create a standing budget committee to review expenditures and determine future funding pathway. Due to lack of quorum, the motion was not carried. Additionally, due to lack of quorum, members were not able to vote on the FY 26 budget. Ms. Bailey mentioned FY 26 budget requests are due (to AOC) August 9, 2024.

As a result, the consensus among commission members present was to schedule a meeting before August 9, 2024, to discuss and approve FY 26 budget. Ms. Furber encouraged commission members to share ideas with her about the budget.

Action Item: A full commission meeting will be scheduled to discuss and approve FY 26 budget before August 9, 2024.

DNHRQAC Subcommittee Updates and path forward

A brief update was provided by the DNHRQAC Eagle’s Law Staffing Ratio Waiver Subcommittee. Subcommittee members have begun working on revising the waiver application, PowerPoint Presentation and video since Joint Finance Committee (JFC) extended the Delaware nursing home staffing ratios per shift requirement to January 1, 2025. This information will be posted on webpages by 1/1/25: DNHRQAC, DHCQ, LeadingAge and DHCFA. DHSS will also post information on social media outlets, too.

As a result of extending the implementation date of the waiver application/process, subcommittee members recommended a brief meeting be scheduled in October 2024 to approved updated materials.

Action Item: Schedule a full commission meeting in October 2024 for commission members to vote and approve the updated materials.

DNHRQAC FY 23/24 Annual Report

Ms. Furber mentioned a combined FY 23/24 DNHRQAC Report is currently being prepared. Once ready for review, this will need to be voted upon by the full Commission.

DNHRQAC By-Laws

Ms. Furber mentioned she has received feedback regarding the revised DNHRQAC By-Laws. Once ready for review, this document will need approval from the full Commission.

5. Public Comment

Dr. Tawyna Dennis, Loftland Park Center, provided testimony. She mentioned she has been serving on a team for one of the SNFs that are having staffing issues. It was shared that there is a cap on admissions @ 75% for this facility.

6. Next DNHRQAC Meeting – August 15, 2024 @ 11:00 am. This meeting will be conducted via virtual platform and in-person anchor location. Meeting invite and details will be forwarded to commission members & available on the Delaware Public Meeting Calendar.

7. Adjournment

This meeting was adjourned at 11:21 am by Lisa Furber, DNHRQAC Chair.

Attachments: DNHRQAC Meeting of July 16, 2024 – meeting agenda
DNHRQAC Meeting of June 14, 2024 – meeting minutes draft
DNHRQAC FY 25 Operating Budget (final)
DNHRQAC FY 26 Operating Budget (considerations)
MFCU Presentation
DHCQ Presentation (QART, Staffing, AAR, BCC, Div. updates, Exigent Circumstances, CMPs)