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*Delaware Nursing Home Residents  
Quality Assurance Commission*

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**DNHRQAC Meeting of October 15, 2024**

**9:30 a.m.**

**Virtually via Cisco Webex**

**Anchor Location: Polaris Healthcare & Rehabilitation Center**

**21 W Clarke Ave**

**Milford, DE 19963**

**FINAL**

Commission member(s) present: Lisa Furber, DNHRQAC Chair; Cheryl Heiks; Kori Bingaman, RN, NHA; Norma Jones; Mary Peterson, RN, BSN; Senator Spiros Mantzavinos; Brian Frazee (by phone); Jennifer McLaughlin, OT; Hooshang Shanehsaz, RPH and Kellie Garson, Esquire (proxy for Dr. Virani).

Commission members not in attendance: Representative Eric Morrison, Dr. Melissa Winters, PsyD and Chris Marques, Esquire.

Deputy Attorney General (DAG) Patrick Smith, Esquire was not in attendance.

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

Others Present: Margaret Bailey, DNHRQAC Executive Director; Kevin Andrews, Public; Corinna Getchell, DHCQ; Denise Elliott, DHCQ; Rob Smith, DHCQ; Kim Reed, DHCQ; Jim McCracken, LeadingAge; Annette Moore, The Moorings @ Lewes; RuthAnn Lander, Public; Maggie Goonan, Public; Staci Marvell, DMMA and Robert Stewart, Public.

1. Call to Order & Introductions

The meeting was called to order at 9:33 am.

2. Approval of the meeting minutes

A motion was made to approve meeting minutes as written. The motion was seconded. Three commission members abstained from voting. The motion was carried. September 17, 2024 meeting minutes were approved as written.

3. Approval of Eagle's Law Staffing Ratio Waiver Power Point Presentation

A motion was made for full commission to approve the Eagle's Law Staffing Ratio Waiver Power Point Presentation. The motion was seconded, and roll call vote netted 8 "yes" and 3 "abstentions". The motion was carried.

4. Approval of Eagle's Law Staffing Ratio Waiver Review Team

A motion was made and seconded to approve the waiver review team with 3 commission members to do the heavy lifting on reviewing waiver application requests and provide recommendations to the full commission. This smaller commission member review team will have 10 business days to review waiver applications. The recommendations will be shared with the full commission to vote on whether a staffing ratio waiver will be granted. Weekly meetings will be scheduled on the Delaware Public Meeting Calendar and will be cancelled if no applications have been submitted.

Senator Mantzavinos asked about an appeal process. Ms. Further shared that DNHRQAC Deputy Attorney General advised an appeal process is not outlined in the Delaware Code and therefore beyond this Commission’s scope of work. DAG Smith, although not present during today’s meeting, previously mentioned that if a facility would like to appeal a waiver decision, they are able to do so through the Delaware Court System.

5. Approval of Eagle’s Law Staffing Ratio Waiver Decision Pathway

The waiver review team will score applications using this tool which includes patient safety goals and quality measures. The review team will present their recommendations to the full commission who will then decide on whether to grant a staffing waiver.

Ms. Peterson motioned to approve decision pathway document as written. The motion was seconded. A roll call vote yielded 8 “yes” and 3 “abstentions”. The motion was carried.

6. DNHRQAC Conflict of Interest Form - draft

An edited form was forwarded to commission members prior to the meeting. The draft includes additional language from Delaware Code that was omitted on current DNHRQAC Conflict of Interest Form. DAG Smith incorporated the “additional” language into the updated form for consideration of the Commission.

A motion was raised and seconded to approve the draft Conflict of Interest form as written. A poll vote netted 7 “yes” and 2 members “abstained”. The motion carried.

Question was raised whether commission members are considered “honorary State officials”. Ms. Further will check with DAG Smith and share with the Commission.

**Action Item** - Ms. Furber to contact DAG Smith regarding “honorary State official” language in DE Code.

7. Discussion of:

3<sup>rd</sup> Qtr 2024 Quality Assurance Review Team (QART) Report

Mr. Rob Smith, DHCQ Licensing Administrator provided data relating to the 3<sup>rd</sup> Qtr 2024 QART Report. A copy of this report was forwarded to commission members prior to the meeting. It appears no State surveyors participated in the surveys listed in this report. It was Health Management Solutions (HMS), contracted by the State, who conducted these particular surveys.

A revised 3<sup>rd</sup> Qtr 2024 QART Report was shared by DHCQ during this meeting. DHCQ recently began tracking assisted living facility citations yielding a “G” level or higher deficiency. In the past, only SNF citations were reported on the QART Report.

During this period, 7 Delaware facilities were cited a “G” level or higher deficiency. One of the “G” level deficiencies was downgraded.

There was a robust discussion about the scope/severity, isolated vs pattern and enforcement of deficient findings during 3<sup>rd</sup> Qtr 2024. There also was a discussion about whether recommendations should be established relating to standard of care for dementia population.

**Action Item** - Ms. Bailey will forward a list of questions regarding the deficiencies/citations and other items to DHCQ.

### 3<sup>rd</sup> Qtr 2024 Staffing Report

Mr. Rob Smith, DHCQ Licensing Administrator, provided details regarding the 3<sup>rd</sup> Qtr 2024 Staffing Report. A copy of the report was forwarded to commission members prior to the meeting. Currently, DHCQ is tracking the hours per resident per day (HPRD). During 3<sup>rd</sup> Qtr 2024, all but two Delaware Skilled Nursing Facility (SNF) met the required HPRD.

DHCQ began tracking CNA and RN/LPN staff to residents' ratios per shift, however this is currently being waived until 1/1/2025. The staffing ratios per shift were supposed to begin being enforced 7/1/2024 but were delayed in FY 25 epilogue language approved by the Joint Finance Committee (JFC) in May 2024.

### 3<sup>rd</sup> Qtr 2024 Exigent Circumstances

Mr. Rob Smith, DHCQ Licensing Administrator, shared data relating to 3<sup>rd</sup> Qtr 2024 Exigent Circumstances the Division received from skilled nursing facilities. He stated all the facilities met the minimum staffing requirement of 3.28 HPRD.

There were 7 SNFs that submitted exigent circumstance forms to DHCQ. The reasons listed: replacement staff unavailable, increased census and last-minute callouts. Mr. Smith advised most of the exigent circumstance issues were nurse related.

Ms. Peterson asked whether DHCQ would stop admissions in a facility if they are understaffed or consistently fail to meet staffing requirements. Ms. McLaughlin stated there should be a duty to close admissions if a facility cannot provide enough staff to care for the residents.

### 3<sup>rd</sup> Qtr 2024 Top Deficiencies/Citations

SNFs - food, sanitation, care planning and respiratory care.

ALs – resident assessments, service agreements, pneumonia vaccines, medication management and residents' rights.

### DHCQ Updates

Division staff vacancies – Currently, there are 5 staff vacancies in the Long-Term Care Residents Protection (LTCRP) Investigative Section. There are currently no vacancies in the Office of Health Facilities Licensing and Certification section (OHFLC).

Wellsky – DHCQ has been meeting with other DHSS Division staff regarding this database. Currently, there is a 2-week delay. It is anticipated this new database will be rolled out on November 4, 2024. There will be training sessions offered, so stay tuned.

Survey results during 3<sup>rd</sup> Qtr 2024 (July 1, 2024 – September 30, 2024):

<u>SNF</u>	<u>AL</u>
11 Annual (1 completed by contractor – HMS)	8 Annual (all completed by DHCQ staff – always a nurse)
17 Complaint	9 Complaint
2 Follow-up	3 Follow-up

### Updates regarding recent legislation that impacts DHCQ

Ms. Getchell, DHCQ Director, provided updates regarding SB 150, SB 151 and HB 204 that were signed by Governor Carney on August 1, 2024. She mentioned both senate bills had a fiscal note

attached and at this time DHCQ has not hired a staff member. As a result, Ms. Getchell asked facilities to hold off on sending information to DHCQ relating to dementia training & services until a staff member has been assigned this task.

Additionally, Ms. Getchell provided an update regarding Civil Monetary Penalties (CMPs). She mentioned there are Federal and State CMPs. Currently, there is a delay in approving Federal CMP applications. At the State level, there are a few applications currently under review.

#### 8. Old/New Business

##### DNHRQAC Subcommittee Updates

Updates were provided regarding DNHRQAC Eagle's Law Staffing Ratio Waiver Subcommittee. Due to time constraints, updates for the other DNHRQAC Subcommittees were tabled until the next full commission meeting.

##### Residents Rights Month

Ms. Bailey mentioned October is Residents Rights Month. The Commission submitted a commentary in Bay-to-Bay News about resident's rights. This annual event is to honor residents living in long-term care facilities and receiving care in their home or community. It is an opportunity to focus on and celebrate the dignity and rights of every individual receiving long-term services and supports. This year's theme: "The Power of My Voice".

##### Project Comfort

Ms. Bailey mentioned that during the past several years, Project Comfort has been delivering blankets and visiting several Delaware nursing homes during the winter holiday season. This year, the non-profit organization plans to deliver blankets to 18 Delaware long-term care facilities. DNHRQAC staff and commission members volunteer for this cause.

#### 9. Public Comment

Annette Moore provided feedback regarding duty to report relating to abuse, neglect and exploitation. Additionally, Ms. Moore asked about the delay in SB 150 & SB 151. Ms. Moore shared her concerns regarding time frame between employment termination for abuse and being placed on the Adult Abuse Registry (AAR). The concern is the individual could potentially work elsewhere and harm others. Finally, Ms. Moore agreed that an assisted living memory care license is needed.

10. Next DNHRQAC Meeting – November 19, 2024 @ 9:30 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.

#### 11. Adjournment

This meeting was adjourned at 11:54 am.

Attachments: DNHRQAC Meeting of October 15, 2024 – meeting agenda  
DNHRQAC Meeting of September 17, 2024 – minutes draft  
DNHRQAC Eagle's Law Staffing Ratio PowerPoint Presentation – final draft  
DNHRQAC Eagle's Law Staffing Ratio Rubric/Decision – final draft  
DNHRQAC Conflict of Interest Form - draft  
3<sup>rd</sup> Qtr 2024 QART Report  
3<sup>rd</sup> Qtr 2024 Staffing Report – CNA & LPN/RN ratios per shift, too