DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

ANNUAL REPORT
FY 2015
(July 1, 2014 - June 30, 2015)

DELAWARE NURSING HOME RESIDENTS
QUALITY ASSURANCE COMMISSION

Members of the Commission as of October 15, 2015

The Honorable Senator Bethany Hall-Long
The Honorable Kimberly Williams
Karen E. Gallagher
Patricia Dailey Lewis, Esquire
Vicki L. Givens, RN, BS, NHA
Elisabeth A. Furber
Melissa Heck, RN
Amy Milligan, MS
Yrene E. Waldron, LNHA
Kyle Hodges
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I. BACKGROUND INFORMATION

The Commission

The Delaware Nursing Home Residents Quality Assurance Commission (the Commission) was established in 1999 - 29 Del. C. § 7907. The Commission’s principal charge is to monitor Delaware’s quality assurance system for nursing home residents in both privately run and state operated facilities with the goal that agencies responsible for the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

As part of its monitoring effort, the Commission reviews state agencies responsible for investigating complaints of abuse, neglect, mistreatment and financial exploitation, as well as other agencies that have input on the quality of care in Delaware’s nursing homes. The Commission reviews reports of serious citations of quality of care issues and staffing patterns prepared and presented on quarterly basis by the Division of Long term Care Residents Protection as directed by the Joint Sunset Committee in 2006.

The Commission is also charged by the General Assembly and the Governor with examining policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the respective roles of Delaware Health and Social Services, the Attorney General's Office and law enforcement agencies
as well as health care professionals and nursing home providers.

Finally, the Commission is required to prepare and submit an annual report to the Governor, the Secretary of the Delaware Department of Health and Social Services (DHSS), and members of the General Assembly. This is the Commission’s 2015 annual report.

**Appointment of Commission Members**

- The Commission is composed of a total of 12 members, eight of whom are appointed by the Governor.

- One of the members appointed by the Governor is to be a representative of the developmental disabilities community protection and advocacy system established by the United States Code.

- The remaining members are to include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel, and advocates for the elderly.

- Of the remaining four members, two members are appointed by the Speaker of the House, and two members are appointed by the President Pro-Tempore of the Senate. These four members serve at the pleasure of their appointing authorities.

**Frequency of Meetings**

While the Commission is only required by statute to meet at least quarterly, the Commission meets on a bi-monthly basis.
II. AGENCY REVIEWS

Introduction

Pursuant to 29 Del.C. § 7907(g) (1), the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and takes testimony (a snapshot in time) from representatives of state agencies. These include the Division of Long Term Care Residents Protection (DLTCRP), the Ombudsman’s Office, Division of Medicaid and Medical Assistance, the Department of Justice, Division of Aging and Adults with Physical Disabilities, Guardianship Monitoring Program, law enforcement agencies, other state agencies, health care professionals and nursing home providers.

To that end, the Commission invited representatives from state agencies and other presenters to appear and testify before the Commission. The following is a summary of these agency reviews:

Division of Long Term Care Residents Protection (DLTCRP)

Tom Murray, Deputy Director DLTCRP, and Robert Smith, Licensing Administrator, provided Commission members with assurance review, staffing and other matters related to long term care.

Discussions were held during Commission meetings and included
information updates on a variety of issues:

DLTCRP’s Quality Assurance Review Team provided the Commission with quarterly reports showing, after team review, whether any “G” level deficiencies recommended by surveyors would be upgraded or downgraded.

DLTCRP provided quarterly Staffing Reports to the Commission as a result of Eagle’s Law enacted in 140th General Assembly (Senate Bill 115).

DLTCRP also provided Commission members with a report of Civil Monetary Penalties imposed in Delaware Nursing Homes and Assisted Living Facilities. The monetary penalties imposed by CMS or the State of Delaware are based on the level of harm, improper discharge procedures, pattern of non-compliance, or threat to a residents health and safety.

Certified Nursing Assistants (CNAs) who provide the majority of hands-on care to the residents now have an educational tracking system linked to their certificate. This will ensure the CNA stays current with continuing education requirements and can be accessed by employers so that an employer can efficiently determine whether a prospective employee is suitable to work in a long term care setting.
Best Buddies of Delaware

Anne Chaffin, Citizen’s Program Supervisor; Michael Pasquale, staff; and Jon Knorr, State Director; provided Commission members with an update about Best Buddies of Delaware.

The group’s mission is to establish a global volunteer movement and create opportunities for one-to-one friendships, integrate employment and leadership development for people with intellectual and developmental disabilities.

Best Buddies was established in Delaware – 2008. The program works to end social isolation for individuals with Intellectual Developmental Disabilities (IDD) by establishing meaningful and lasting friendships as well as life skills.

Individuals are matched based on: gender, age, common interests and proximity to home or work. All participants are asked to commit to a one-year friendship; maintain weekly contact by phone, mail or e-mail and see each other twice a month.

Best Buddies of Delaware is funded through individual gifts, foundation grants, Government grants and special events.

There are three main programs offered through Best Buddies of Delaware:

1. **School Program** - 21 schools within all three counties participate in this program for students (10+ through college years) that operates as student run clubs at the schools.
2. **Citizens Program** - Adult community program (18+) where IDD individuals are paired with a non-disabled peer in the civic or corporate community (Bank of America).

Currently, the Citizens Program has 91 buddies paired throughout New Castle County. This program began September 2009. Individuals with a disability need someone to sponsor them (family member, caregiver, etc) to speak on their behalf and act as a liaison.

3. **E-Buddies** - a national Best Buddies on-line pen pal program that pairs individuals with IDD with a non-disabled peer who lives in another state through e-mail. The server used blocks out phone numbers and e-mail addresses.
Regarding adults, all participants without disabilities are given a brief overview of disabilities - during the interview. In addition, two training sessions are offered yearly for individuals without disabilities to learn about disabilities, participate in an open forum with program peers and an opportunity to hear from presenters regarding a specific topic.

Background checks are performed for every Citizens Program and e-buddy applicant.

Mr. Korr mentioned that two significant barriers Best Buddies of Delaware is facing - funding and volunteers. The group would appreciate any suggestions.

For more information about Best Buddies at Delaware:
www.bestbuddiesdelaware.org or (302)691-3187.

Interim Healthcare

Patti Newcomb and Tiffani Taylor provided Commission members with an overview of Interim HealthCare.


The agency provides personal assistance services, skilled nursing and non-medical care customized to meet individuals needs and wishes.

Interim employs nurses, therapists, aides, companions and other healthcare professionals to provide home health care - both senior and pediatric care. Interim also provides supplemental staffing in licensed long term care and assisted living facilities throughout Delaware.

Employees are screened: Criminal Background Check, Drug tested and Adult Abuse/Child Abuse Registry.

Interim HealthCare: (302)322-2743 or www.interimhealthcarede.com.

Sally Jennings, RN Project Coordinator and Jan Lennon, Delaware Program Coordinator, presented Quality Insights of Delaware’s 11th Scope of Work (SOW) regarding Nursing Home Care Coordination. QI’s is contracted with Centers for Medicare & Medicaid Services (CMS) which focuses on quality. CMS restricted the efforts so now they are considered Quality Improvement Networks which includes: Louisiana, Pennsylvania, West Virginia, New Jersey and Delaware.

14 Delaware nursing homes participated in QI of DE’s 10th SOW, which focused on Quality Assurance & Performance Improvement; Composite score reduction and reducing unnecessary anti-psychotic medication. The composite score(s) measure:

1. % of residents with one or more falls with a major injury
2. % of residents with a Urinary Tract Infection (UTI)
3. % of residents who self-report moderate to severe pain
4. % of high-risk residents with pressure ulcer
5. % of low-risk residents with loss of bowels or bladder
6. % of residents with catheter inserted or left in bladder
7. % of residents physically restrained
8. % of residents whose need for help with Activities of Daily Living (ADL) has increased
9. % of residents who lose too much weight
10. % of residents who have depressive symptoms
11. % of residents who received antipsychotic medications
12. % of residents assessed and appropriately given flu vaccine
13. % of residents assessed and appropriately given pneumococcal vaccine

Quality Insights of Delaware’s 11th SOW will contain/build on the above and also include the following:

1. Obtain a composite score of six or less by 2019
2. Include all one star performing Delaware facilities
3. Include high performing Delaware facilities – to serve as mentors/coaches
4. Increase family participation
5. Increase mobility of LTC residents
6. Initiate two separate collaborative efforts (18 month duration) starting 4/15/15
7. Provide assessment(s)
8. Review quality measures
9. Encourage 33 Delaware facilities to participate in the collaborations

A letter was recently sent to all Delaware nursing homes asking for participation in this effort. QI’s will begin identifying high performing Delaware nursing homes/peer coaches in the near future.

The goal is to have 33 Delaware nursing homes participate in this collaboration. Initially, 11 Delaware nursing homes will need to commit to this project. The first collaborative effort will begin 4/15/15.

**Brookside Clinical Laboratory, Inc**

Annette Iacono, Vice President, presented to the Commission about Brookside Clinical Laboratory, Inc that serves 120 LTC facilities throughout: Delaware, New Jersey, Maryland and Pennsylvania. In addition, they provide community-based services. Brookside offers a personalize type of service – no voice mail, same day turn around, and most lab work is completed in-house.

Brookside also provides a home draw service for individuals living in the community that are homebound and need blood work, culture, etc.

**Civil Monetary Penalty (CMP) Report**

14 Facilities were fined by Centers for Medicare & Medicaid Services (CMS) for “actual harm” to residents. DLTCRP primarily uses the funds for educational purposes: mandatory Director of Nursing (DON) training, Minimum Data Set (MDS), etc.

The question was raised as to why facility names do not appear on the CMP Report. DAG, Lisa Barchi shared that this report is subject to FOIA. Mary Peterson added that these are Federal impositions and are “FOIA- able”. Ms. Peterson added that DLTCRP would need to check with CMS before releasing the names of facilities on a report, such as this one.

Mary Peterson shared that CMP monies are available for anything that will make care or life in a nursing home better. Facilities that are Medicare certified are able to submit a request to DLTCRP for CMP funds ----stating the reason and amount. DLTCRP developed a CMP request form which appears on their webpage.
Money Follows the Person

Ronnelette Anderson, Program Manager for MFP, provided an update to Commission members. MFP began in 2007 with $5.3 M over a five year period. The program was extended through 2016 and might receive additional funds.

As of September 2015, 206 individuals were transitioned into the community; 68 active MFP members reside in the community and 38 individuals were preparing to move out into the community.

Governor’s Commission on Building Access to Community-Based Services

The meeting of November 21, 2014 was held joint with the Governor’s Commission on Building Access to Community-Based Services (GCBACBS) whose mission is to develop a comprehensive administrative and legislative plan for a diversified, individualized, cost-effective service and support system that enables individuals with disabilities to live and work in the most integrated setting of their choice.

Mary Peterson, DLTCRP Director, provided participants with an overview of the Division. DLTCRP’s mission is to protect residents in Delaware long term care facilities through:

- Promotion of quality of care, quality of life, safety and security, and
- Enforcement of compliance with State and Federal laws and regulations.

The Division is responsible for the Adult Abuse Registry; Criminal Background Checks and Mandatory Drug Testing; the Certified Nursing Assistant (CNA) Registry; complaint and incident reporting related to long term care facilities; licensing/certifying long term care facilities; and developing regulations related to these areas.

Ms. Peterson mentioned that DLTCRP often faces situations in nursing homes, assisted living, group homes, neighborhood homes and rest homes which are able to be rectified after quality improvement is applied. Secretary Landgraf concurred and shared that training can help change how we learn from a mistake and promote constant improvement relative to quality measures and standards.

Ms. Peterson also mentioned that the Senior Protection Initiative (AG’s Office) has a sub-committee that began reviewing elder abuse (January
and how to hold an individual accountable – should they not report it. The group is working on revisions to Title 16 §11 and §39 - imposing fines to those that know about abuse and fail to report. The hope is to also increase fines from $1,000 to $10,000 (first occurrence) and $50,000 for a subsequent violation. The Division cited 566 deficiencies in 2012/2013 – of which, seven were at a “G” level.

Ms. Peterson provided an overview of the annual survey process where a team of four/five DLTCRP staff members enter a facility and inspect based on Federal/State regulations - approximately five days. When the survey team exists, the facility is aware of any deficient practice found by the Division. The facility is required to write a plan of correction for any deficiency and submit to DLTCRP within 10 days. Should a facility want to dispute a citation, there is an Informal Dispute Resolution (IDR) process where a facility can provide testimony to a hearing officer in hope that the “G” level deficiency is overturned.

Division of Aging (DSAAPD)

Jill Rogers, Division of Aging Director, provided an update to the Commission. Ms. Rogers is a nurse and previously was ED for the Delaware Health Care Commission.

Items that the Division of Aging will be working on FY 15/16:

1. Section Chief for the LTC State facilities (John Schmidt) retired 11/14. Kim Blunt is currently serving as interim Chief for DHCI, EBH and Governor Bacon. Ms. Blunt has experience as NHA in Delaware. The Chief posting appears on Office of Management and Budget’s employment webpage.

2. The Division of Aging will be building on providing home and community based services for individuals in LTC facilities.

3. Managed Care Organizational (MCO’s) changes occurred January 1, 2015. The two providers currently are Highmark and United Health Care which each represent roughly 50% of the Medicaid population in Delaware (each). Individuals affected have been contacted about the provider changes.

4. State Innovation Model (SIM) – Delaware was awarded a grant of 35 million mid-Dec 2014, which will be used to:
• Develop a health care transformation strategy that is multi-payer and multi-stakeholder and focuses on achieving the "Triple Aim"
• Achieve measurable results in three years through practical implementable goals
• Focus on the best interests of all Delawareans and respect the voice of consumers
• Learn and make use of best practice examples from other states and countries where possible.

Several sub-committees were formed to support SIM, which appears under the Delaware Health Care Commission. Information about the State Innovation Model: http://dhss.delaware.gov/dhss/dhcc/sim.html.

Long Term Care Ombudsman Program (LTCOP)

Beverly Morris, LTC Ombudsman in New Castle County, provided an overview to Commission members. Ms. Morris will be retiring January 31, 2015 after providing 32 years of service.

Victor Orija, State Ombudsman, retired earlier in December 2014 and provided 13 years of service. Teresa Ritter currently serves the role as State Ombudsman.

Long Term Care Ombudsman advocate for residents who live in long-term care facilities as well as those who live in other settings (such as their own homes) and receive home and community-based services. The Ombudsman program investigates and resolves complaints on behalf of these individuals.

LTCOP has six advocates who serve in LTC, AL, Board and Care, Neighborhood Homes, Rest Homes, Group Homes, and Home and Community-Based Services. The office also has a Volunteer Ombudsman’s Program – currently 24 volunteers.

The office plans to update their website in the near future to include Residents Rights. LTCOP holds an annual Resident Rights Rally (October) to recognize residents rights state-wide.
Managed Care Organizations (MCO) and Money Follows the Person (MFP) Budget

Kathleen Dougherty, Staci Marvel and Ronnette Anderson provided updates to the Commission regarding the Division of Medicaid & Medical Assistance (DMMA).

**MCO Highlights:**

- Managed Care is a health care delivery system organized to manage cost, utilization, and quality.

- There are currently two MCO’s in Delaware – United and Highmark (as of 1/1/2015). The Medicaid contract with Aetna was not renewed in 2015.

- 130,000 Medicaid clients previously served by Aetna were moved to United & Highmark.

**MFP Highlights:**

- Program was awarded to Division of Medicaid and Medical Assistance (DMMA) in 2007 - as a demonstration grant.

- Designed to help transition individuals from a facility to community-based setting by: utilizing a transition coordinator, determining assistive devices & modification equipment, locating support system (attendant services, activities, transportation, etc) & securing housing.

- MFP Eligibility: an adult must be Medicaid eligible when entering the program; have lived in a LTC facility for more than three months; have health needs that can be met through services in the community; voluntarily consent to participate and meet HCBS program criteria (waivers).

- Year End 2014, 228 individuals have participated in MFP. To date (2015), there are 53 MFP participants. There is no wait list currently for HCBS.

- CMS reviews MFP budget submissions and decides program funding. It appears that over the past 24 months, the biggest percentages of MFP costs are associated with home health care
services (35%). No capitation rate for risk-based services is currently required.

Office of the Public Guardian (OPG) & DE Guardianship Commission (DGC)

Sherri Hageman, provided an update to Commission members regarding OPG & DGC. The Office of the Public Guardian currently has 200+ cases (person and property). There are three case managers within OPG – one in each county.

Promise Program- Division of Substance Abuse and Mental Health (DSAMH)

Tom Johnson and Bryan Gordon, DSAMH Provider Relations Unit, provided an overview of the Promise Program to Commission members.

The Promise Program will provide support services for individuals living in the community that have been identified as having severe and persistent mental illness. This is achieved by promoting optimal mental health for individuals through supports and employment.

History: July 15, 2011 the US Department of Justice and State of Delaware agreed that people living with severe and persistent mental illness should not be kept in institutions and should live in the least restrictive environment. As a result, the State of Delaware and Centers for Medicare and Medicaid Services (CMS) entered into a partnership that leverages State funding for services with this targeted population.

DSAMH’s Eligibility and Enrollment Unit (EEU) determines if a person qualifies for this program. Eligibility factors include: age, behavioral health finding and function level (American Society for Addiction Medicine Assessment tool). EEU: (302)255-9454.

Promise will offer 15 community-based and recovery-oriented services to help people live independently in the community. The Request for Proposals (RFP’s) are in process. Participants will choose services necessary to meet their needs: care management; individual employment services; short term small group employment services; financial coaching; benefits counseling, peer support; non-medical transportation; community-based residential support; nursing; community psychiatric support and treatment; psychosocial rehabilitation; respite; independent activities of daily living; personal care and community transition services.
State Office of Volunteerism (SOV) – Volunteer Delaware 50+

Debby Vandiver, Volunteer Delaware 50 + Program Manager, provided an overview to DNHRQAC members. The program was launched April 1, 2015 to meet community needs by encouraging and supporting volunteerism throughout Delaware.

Volunteer Delaware 50+ replaced the Federal and State funded Retired and Senior Volunteer Program (RSVP) in New Castle and Sussex counties. This new program will provide the same meaningful opportunities to valued senior volunteers; lower program enrollment age from 55 to 50 and provide a larger scope of services and potential impact by expanding into Kent County.

The volunteers (age 50+) utilize their skills and talents while serving activities within the community. 50+ volunteers choose what type of service they would like to offer; where they would like to assist and how frequent they elect to serve.

There are currently 985 New Castle County 50+ volunteers & 1,200 Kent/Sussex 50+ volunteers in the program. The volunteers work with more than 200 organizations throughout the state to offer a variety of assistance such as: mentoring, coaching, clerical support, disaster preparedness, etc. Volunteers typically provide 2 - 4 service hours per week.

To contact Volunteer Delaware 50 +: NCC: (302)255-9882, Kent: (302)857-5006, Sussex: (302)857-5816 or www.volunteerdelaware.org.

III. JOINT SUNSET COMMITTEE

The Commission oversees the Joint Sunset Committee’s 2006 recommendations made for the Division of Long Term Care Residents’ Protection and reviewed as follows:

- The Division of Long Term Care Residents’ Protection established a Quality Assurance Review Team (QAR Team) that reviews deficiency reports quarterly. The QAR Team provides a written quarterly report to the Commission regarding any upgrades to “G” level or above and
downgrades to “G” level or below by the QAR Team, setting forth the number of such downgrades and upgrades at each facility and the reason for each. Quarterly reports are submitted to the Commission on the 15th of every September, December, March and June.

- A Medical Director was added to the QAR Team who reviews medical records, advises the Division on medical issues, testifies on the Division’s behalf at Informal Dispute Resolution hearings, and participates in the QAR Team.

- The Division of Long Term Care Residents’ Protection submits a written quarterly report to the Delaware Nursing Home Residents Quality Assurance Commission identifying a nursing home’s noncompliance with staffing ratios by shift under Eagle’s Law (16 Del. C. §1162).

**IV. LEGISLATION AND REGULATION REVIEW**

The Commission received notice of regulations and legislation effecting long-term care residents in the State of Delaware, including:

HB 158 – An act to amend Title 31 of the DE Code relating to the reporting of abuse and neglect of an adult person who is impaired or incapacitated. This bill remained in the House Health & Human Development Committee as of 06/02/15.

HB 150 – An act to amend Title 16 of the DE Code relating to Death with Dignity. This bill remained in the House Health & Human Development Committee as of 06/28/15.

HB 69 – An act to amend Title 18 and Title 24 of the DE Code relating to Telemedicine Services. This was signed by the Governor 7/7/15.
HB 64 – An act to amend Title 16 of the DE Code relating to the Delaware Medical Orders for Scope of Treatment Act. This was signed by the Governor 5/28/15.

HB 17 – An act to amend Title 31 of the DE Code relating to Adult Protective Services. This was signed by the Governor 6/4/15.

SB 145 – An act to amend Title 16 of the DE Code relating to Health and Safety, Nursing Assistants and Certified Nursing Assistants. This bill was signed by the Governor 7/28/15.

SB142 – An act to amend Title 31 of the DE Code relating to preventative and urgent dental care for Medicaid recipients. This bill was out of committee 6/4/15.

SB 140 w/SA 1, SA 3 – An act to amend Title 30, Title 16 of DE Code and Laws of Delaware relating to Nursing Homes and Quality Assessment. This bill was signed by the Governor 6/30/15.

SCR 24 – Recognizing June 15, 2015 as ‘Delaware Elder Abuse Awareness Day”. This was passed in the House 6/11/15.

V. **COMMISSION STAFFING**

The Delaware Nursing Home Residents Quality Assurance Commission members hired a full-time Administrative staff person as of
January 31, 2007. The Administrative Office of the Courts funds the salary and budget of this position. The staff represents the Commission and works closely with State Agencies and other stakeholders to aid in the quality of care for residents in licensed Delaware State and Private Nursing Homes and Assisted Living Facilities.

Due to the “temporary” closure of Emily P. Bissell Hospital for repairs, the commissions office was re-located 5/14/15 to: 2540 Wrangle Hill Rd Suite 223 Bear, DE 19701.

VI. NURSING HOME AND ASSISTED LIVING FACILITY VISITS

Commission Staff and members of Delaware Nursing Home Residents Quality Assurance Commission attended 39 nursing homes and 20 assisted living facilities Post Survey Meetings during July 1, 2014 and June 30, 2015. The purpose of the visits was to promote an atmosphere of information sharing so that the Commissioners would be able to fulfill their responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Staff and Commissioners interacted with facility administrators, staff, residents and families.

In addition, the staff received phone calls from family members and the community regarding:
1. How to locate long-term care and/or assisted living facility services;

2. Who to contact regarding MFP services;

3. Which State agency would investigate a nursing home or assisted living facility complaint;

4. How to locate Ombudsman or Guardianship assistance.

As a result of being contacted by family members and the community, the staff provided contact information and alerted appropriate agencies so they could follow-up with the individuals directly.

Staff is a member of the Delaware Oral Health Coalition which is developing the States Oral Health Plan.

Staff has been involved with training efforts in Delaware regarding elder abuse, neglect and financial exploitation of the elderly and vulnerable adult population.

Staff has been involved with the Delaware Culture Change Coalition, a group of stakeholders that meet to help create a more personalized-centered approach for resident living in long-term care settings.
VII. FACING FORWARD: COMMISSION GOALS

The Commission has set the following goals for its work in the coming months:

- Continue to review agency performance and coordination.
- Continue to review and comment on regulations proposed concerning long term care.
- Focus on assisted living by reviewing what other states are doing to ensure quality of care and provide recommendations to the Governor and Members of the General Assembly.
- Encourage collaborative initiatives that will reduce high turnover of nursing home staff and help recruit qualified nurses to long term care.
- Foster and promote abuse/fraud investigation training for law enforcement and other agencies statewide.
- Monitor enforcement of Eagle’s Law so as to ensure minimum staffing level compliance.
- Enhance outreach to consumers of long-term care to increase Commission profile so as to ensure the Commission is called upon to review problems and deficiencies in long term care.
- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify “Gaps” in services available for aiding in the care for the elderly and disabled.
- Review educational programs such as Certified Nursing Assistants (CNA) and make educational recommendations to enhance the programs.
- Focus on employee recruitment and retention challenges to aid in the quality of care for residents.

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