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DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION  
Virtual Meeting  
Cisco Webex  
Final  
Meeting of May 17, 2022  
Minutes

Commission member(s) present: Lisa Furber, DNHRQAC Chair; Cheryl Heiks; Norma Jones; Jennifer McLaughlin; Representative Kim Williams; and Lt Gov Bethany Hall-Long; Dr. Melissa Winters, PsyD; and Tonya Burton.

Commission members not in attendance: Amy Milligan; Kyle Hodges; Hooshang Shanehsaz, RPH; Karen Gallagher; and Ed Black, Esquire.

Joanna Suder, Esquire, and Chris Marques, Esquire was present from Attorney General's Office.

Others Present: Margaret Bailey, DNHRQAC Executive Director; Corinna Getchell, DHCQ; Staci Marvel, DMMA; Mark Brainard, JLOSC; Steven LePage, Consumer; Meredith Newman, News Journal; Amanda McAtee, JLOSC; Kevin Andrews, Consumer; Maggie LaScala Goonan, Consumer; and Sandra Hale, State LTC Ombudsman. There were two other individuals that joined the meeting by phone and not identified.

1. Call to order

The meeting was called to order at 9:34 AM by Lisa Furber, Chair.

2. Approval of the Minutes for the meeting of:

The meeting minutes' draft of March 15, 2022 were not voted on due to lack of quorum.

3. Vote on whether to wait or proceed forward with name change at this time &  
Long Term Care/Oversight definitions related to DE Code

Commission members elected to table this agenda item due to lack of commission members present. Joanna Suder, Esquire, attended this meeting as Delaware Department of Justice is in the process of assigning a new Deputy Attorney General to represent the Commission.

Ms. Suder has not had an opportunity to connect with JLOSC attorney yet regarding questions pertaining to name change vs DE Code. She further added "It is not difficult if the words DNHRQAC wants to use are not defined in DE Code, if what the Commission is looking to do is to define the role of the Commission."

Regarding long term care, Ms. Suder stated "I have a concern if the Commission wants to use the phrase long term care, defining the scope of what long term care means to the Commission – does it apply to long term care facilities as they are defined in title 16, etc."

Regarding Oversight, Ms. Suder stated “Oversight is a pretty general word that has some connotations that might imply authority to control or change.’ Ms. Suder did remind DNHRQAC members to look at the commission’s statutory authority.

Finally, Ms. Suder mentioned that typically if Delaware General Assembly is going to propose a bill (which she believes it appears to be the case for this Commission), the name change would be included in that bill. As a result, DNHRQAC would not need to draft another bill to address a name change.

Representative Kim Williams suggested Commission members select a name that works for the group. Ms. Bailey reminded the group that members voted and approved a name change a few months back (Delaware Long Term Care Oversight Commission).

4. Discussion of:

#### DNHRQAC Member Updates

Ms. Furber asked commission members if they could provide a very brief update regarding the area the member represents on the commission and information of interest as it relates to long term care in Delaware. Ms. Furber mentioned commission members will have an opportunity to provide updates to the group at the beginning of each open public meeting.

Lisa Furber: Community Legal Aid Society, Inc (CLASI) has resumed in-person facility monitoring and other types of activities in the community.

Lt Gov Bethany Hall-Long: Shared that Senator Spiros Mantzavinos expressed interest in serving on DNHRQAC. The Senator might join DNHRQAC Meeting of July 2022. This appointment would replace Lt Governor’s position on the Commission. Lt Governor’s Office will continue to work with Ms. Bailey and Ms. Furber regarding issues or concerns within long term care facilities.

May 3, 2022, Lt Governor hosted a memorial service, A Day of Remembrance in Dover. This event was designed to keep memories alive and lift-up those impacted by COVID-19 long-haul symptoms, hero’s, etc.

Representative Kim Williams: The House has resumed in-person sessions on Tues, Wed and Thurs and committee meetings on Tues and Wed in-person or virtually.

Ms. Bailey added that Rep Williams is sponsoring a concurrent resolution regarding World Elder Abuse Awareness Day (WEAAD) - June 15, 2022.

Jennifer McLaughlin: Shared she was excited to see the dementia bill, as she is a dementia care specialist. She further added more education is needed to help those affected by or caring for folks living with dementia.

Dr. Melissa Winters: The clinical portion of the Neuro Behavioral Health Program at Delaware Hospital for the Chronically Ill (DHCI) combines activities, nursing and psychology. The

program works close with pharmacy, too and added additional team members: psychologist, 2 CNA's and 3 nurses. This brings the team member total to 28.

Division of Services for Adults with Physical Disabilities (DSAAPD) is going with a new training model. As a result, staff participants are working on growth tracks which is a set of 5 classes on related topics. Dr. Winters is teaching the Neuro Behavioral Health track which includes: traumatic brain injury; responding to common behavioral concerns; dementia non pharmacological; dementia pain management; basics of psychotropic medication and general course on how memory works.

Ms. Bailey asked whether any of the training resources will be open to the public. Dr. Winters mentioned this is being run by DHSS Training Department and said training materials will definitely be available.

On the administrative side of the Neurobehavioral Health Program, they have been developing a guidance form with help from Pharmacy Director, Hooshang Shanehsaz. The guidance form walks facilities through the 18 CMS regulations for psychotropic medications in facilities. DHCI has completed the form for all residents and in the process of updating based on what they have learned. Once the final version is complete, they will gladly share with a facility should they like to use it.

Cheryl Heiks: Long term care facilities are continuing to combat COVID19 virus as cases are on the rise again. The high vaccination and booster rates is protecting Residents and staff.

Currently, Residents & staff vaccination and booster rates:

96% of staff vaccinated, 53% boosted (not all staff qualify for booster at this time)  
94% of Residents vaccinated, 90% boosted (not required to be vaccinated or boosted)

American Rescue Plan Act (ARPA) money is being used to stabilize staffing but unfortunately will not last forever. The funds will most likely be gone by September 2022, if not by December 2022. The funds have been used to provide large increases for staff to work additional shifts, wage increases or supplement with outside staffing agencies to meet current staffing ratios.

Ms. Heiks stated she is interested in learning more about the Neuro Behavioral Health Program outline by Dr. Winters today and will be happy to promote the program with all Delaware facilities.

Norma Jones: Ms. Jones mentioned she has seen some improvement in communication among Residents and staff. She often has fellow Residents stop by and express concern about a variety of issues. Those issues have been corrected and Residents appear happier, more upbeat. Kentmere began permitting outside entertainment companies to re-enter the facility last month. Residents enjoy the live performances and attendance has been high!

Tonya Burton: No updates to share at this time.

## Workforce Advocacy

Ms. Furber mentioned there have been on-going discussions about workforce advocacy & and collaboration effort. She'd like to see how the Commission can help address/support such issues happening everywhere. The Commissions primary focus is workforce challenges within long term care and assisted living facilities. As a result, Ms. Furber opened the floor to continue the discussion among commission members and share additional thoughts about advocacy efforts/be part of the solution.

Ms. Bailey shared that she has been in touch (on-going) with DHSS Cabinet Secretary and others about the long-term care workforce. Cheryl Heiks mentioned workforce is the biggest issue long term care industry is facing and it doesn't just extend to health care professionals working directly in a facility but also to home health care, group homes, hospitals, etc. "It's an issue of supply and demand as our health care system and population demographics have changed over the years. With the aging population and resignations throughout the pandemic it has caused a crisis to become more significant. There are just not enough people to take care of the people that are in need of services. As a result, all of those environments (hospitals, LTC& home health) are competing with each other, including traveling services and staffing agencies."

Ms. Heiks stated that one of the things we can do is to invest in the workforce and educate as many individuals as possible that have expressed interest in long term care. She mentioned that professor per student ratio is lower than some other states and perhaps we could ask the Board of Nursing to consider (at least temporarily) increasing this number to train more students quicker. This consideration should also apply to increasing the number of LTC clinical rotations, which is primarily occurring mostly in hospital settings and often where graduate nurses seek employment. She further added that we should consider encouraging Licensed Practical Nurse (LPN) to fast track along within the educational process, especially if they have worked for a while in LTC setting. In addition, Ms. Heiks mentioned we should prohibit Delaware hospitals from being able to hire LPNs away from LTC setting. If LPNs leave LTC setting to work in hospitals it creates an issue with having enough staff in LTC setting to assist individuals when they are ready for this level of care. Finally, figure out a way to allow more electronic education options for individuals that are primary bread winners and might not be able to attend school on a full-time or traditional basis.

Ms. Heiks shared that the current census in nursing homes is 76% -78%. Prior to the pandemic, census was in the mid 80s.

Nursing home staffing ratio in Delaware is currently 3.28. In Pennsylvania, the staffing ratio is 2.7 per Ms. Heiks. She mentioned there was discussion a few years back to raise nursing home staffing ratio in PA to 4.1, but that was not implemented. Maryland nursing home staffing ratio is 3.0. New Jersey staffing ratio changed in 2020 and Ms. Heiks is going to confirm/report back to the commission about their current nursing home staffing ratio.

Ms. Furber expressed to commission members the importance of work force and on-going discussions regarding this topic during commission meetings. She hopes at the next DNHRQAC Meeting there will be a quorum of members in attendance to vote on whether DNHRQAC

should have a work force advocacy sub-committee that can partner with others to build and retain work force in Delaware.

### Division of Health Care Quality (DHCQ)

Corinna Getchell, RN & DHCQ Director provided updates on behalf of DHCQ (“Division”).

DHCQ is working on updating information on their website. The Division moved their Wilmington Mill Rd office to Newark, DE (University Plaza) last month.

Staffing Report: As of 3/11/2022 (1st Qtr 2022), all skilled facilities were in compliance with Eagle’s Law (3.28 hours per resident required). It appears the private skilled facilities hours per resident = 3.47 and state operated facilities = 5.50.

Ms. Bailey asked DHCQ to please send an updated staffing report as one of the skilled facilities was accidentally omitted on the 3/11/2022 Staffing Report.

QART Report: During 1st Quarter of 2022, the Quality Assurance Review Team (QART) reviewed 9 survey’s involving a ‘G’ level or higher deficiency. Deficiencies are based on scope and severity and 9 of the surveys conducted by DHCQ during this period rose to a “G” level of harm. After review, the QART Team upheld the 9 “G” level citations by survey staff.

DHCQ continues to have staffing vacancies, especially in the area of surveyors. Currently, there is a 43% vacancy rate for surveyors. As of the four currently filled survey positions, two individuals are newly hired (less than 2 months) and two individuals are still in new phase and not compliant (cannot do surveys on their own yet). “This impacts the amount of work DHCQ can accomplish.” stated Ms. Getchell.

Since March 15, 2022, DHCQ completed:

4 annual recertification surveys

13 complaint surveys

4 follow-up surveys

\*All of the surveys were for LTC facilities only

DHCQ is still in the process of interviewing for position (LTC Ombudsman - LTCO) that would be responsible for conducting Post Survey Meetings (PSM).

As a result of the LTCO staff vacancy, DHCQ decided to take another route and PSMs and another DHCQ staff member is completing PSMs at this time.

The purpose of PSMs is to provide residents and families with details about recent annual inspection and allow them an opportunity to provide feedback. The Division began resuming PSMs at few months ago. Ms. Bailey shared that she has been joining Patty Justice, Esquire for facility PSMs ---since they resumed. Commission members received notice of past and upcoming PSMs.

Ms. Furber shared that DNHRQAC will continue to be mindful and thoughtful regarding the number of individuals representing the Commission who enter facilities at this time for PSMs. DNHRQAC members are encouraged to let Ms. Bailey know if they have interest in joining her for any facility visits at this time.

DHCQ has completed 7 PSMs and 9 more PSMs have been scheduled at this point.

Incident Response Teams (IRT) - When a COVID-19 outbreak occurs, these professionals will support long term care (LTC) facilities. Duties include: COVID-19 testing, vaccination, outreach, training and education on infection prevention methods and mitigation strategies in LTC facilities. IRT's function is not intended to replace the responsibilities of the LTC facilities but will instead supplement existing operations.

Since March 15, 2022, there have been 5 facility visits, 18 calls and 16 emails by the Incident Response Team. The IRT work with skilled, assisted living, intermediate care and rest residential facilities.

The team follows up in the event of an outbreak or information provided by the Division of Public Health epidemiologists.

CMS Guidance Updates: Ms. Getchell shared one of the biggest updates during this time is that CMS has announced they are pulling back some of their 1135 waivers. 1135 waivers, the COVID19 emergency declaration blanket waivers. These waivers only apply to CMS certified facilities. There are a variety of waivers in that category. Some of the waivers have a 30 day time frame, some 60 days.

One of the biggest waivers that impacts long term care industry is the temporary aide's waiver. CMS allowed 60 days for this waiver to end. Facilities can use temporary aides but they will need to be certified if they want to continue to provide direct care (October 2022).

Testing guidance: CMS updated testing guidance to reflect up-to-date language. If staff is not up-to-date with boosters they would need to participate in routine testing.

Staff Vaccination Mandate: The mandate regarding staff vaccinations only applies to CMS certified facilities. There have been 2 citations.

Certified Nursing Assistant Schools (CNA Schools): Currently, there are 27 approved nurse aide training and competency evaluation programs in Delaware. 2 programs are currently under review because they are "new".

CNA Application Renewals:

2019 - 73 applications  
2020 - 111 applications  
2021- 128 applications  
2022 (thus far) - 32 applications

CNA "New Graduates":

2019 - 768 individuals  
2020 - 388 individuals (pandemic)  
2021 - 936 individuals  
2022 (thus far) - 309 individuals

As a result, there are 6,202 individuals currently active on Delaware's CNA Registry.

The CNA training syllabus has been revised a bit to add emphasis on infection control and proper use of personal protective equipment (PPE). Continuing education now also includes a 1-hour course on trauma informed care. Ms. Heiks asked if the CNA training syllabus could be shared with commission members, in particular, regarding dementia specific training.

DHCQ Work Force: In regard to the Divisions work force on the long term care side, there currently is a 38% surveyor vacancy rate. As a result, the Division has been triaging workload accordingly and completing annual surveys as they can, as well investigating complaints (as they come in and addressing backlog). The complaint backlog occurred when DHCQ was primarily focusing on infection control surveys. Now, surveyors are taking complaints on site with them as they complete an annual survey.

National Guard: Ms. Getchell shared feedback received regarding the National Guard's presence in long term care facilities was positive. Some of the soldiers that signed-up to volunteer and help their community found this mission rewarding. There were a few career fairs held afterwards to encourage a career path for those that did not have one before this mission. Cheryl Heiks suggested future National Guardsman should be offered this training opportunity (CNA Certification) should there be another medical emergency in Delaware.

#### LTC Medicaid Eligibility Unit

Staci Marvel, DMMA Chief Administrator provided updates regarding Delaware's LTC Medicaid Eligibility Unit.

##### # of LTC Medicaid Applications:

CY 21 - 2,521

CY 22 (thus far) – 751

Most LTC Medicaid applications are submitted electronically or mailed into the unit. Individuals are able to use ASSIST to apply. ASSIST is a streamlined and dynamic application for multiple programs. ASSIST also provides screening. It uses basic information to determine if someone is potentially eligible for a service. There is a fillable version of the application. Ms. Marvel will forward a copy to the Commission.

The average # of days from scheduling appointment to appointment is no longer applicable as DMMA Medicaid Eligibility Unit changed the way they do eligibility. Individuals complete and send in an application and then it is assigned to a staff member. This unit has shied away from in-person appointments but do assist families if they would come into the office.

Currently, 2,656 individuals living in Delaware long term care/nursing homes are receiving LTC Medicaid and 76 individuals living in assisted living facilities. There are currently, 7,636 individuals living in community setting that receive long term care Medicaid services and supports. The community data might include some individuals living in assisted living facilities, too.

Ms. Bailey asked whether Eligibility Unit has seen any delays in LTC placement after applicants are approved. The Unit has seen improvement in this area. Ms. Marvel used to hear hospitals talk about delays in placement but is not hearing it so much anymore. Currently and before the pandemic, the Unit heard of nursing home placement delays due to behavior reasons.

DMMA is suffering, too, due to work force shortages. Ms. Marvel shared that the Eligibility Unit at one point had 30% vacancy rate --- It's the highest she's ever seen. At this time, Ms. Marvel believes the Unit is in a better place, but not where they need to be in terms of work force. The Unit is comprised of 100 medical and financial staff positions.

Ms. Bailey mentioned the Medicaid annual cost reports listed on DMMA's webpage reflects figures from 2003/2004. Ms. Marvel shared that she reached out to DMMA's Fiscal Unit and response she received: "the primary and base nursing facility rate components for private nursing facilities have been frozen since 2009. The only rate updates the facilities receive each year come from the annual recalculation of the Nursing Facility Quality Assessment Funds."

Outreach: There are two New Castle County events the Eligibility Unit will be participating in sometime in the near future to provide outreach efforts.

Pre Admission Screening - The Pre-Admission Screening (PAS) unit will conduct an evaluation of the applicant to determine if he/she requires a skilled or intermediate level of care as defined by Delaware Medicaid criteria. Some medical determinations can be made by obtaining information from the nursing home. The PAS RN will make this determination. PAS Unit also screens to determine an updated level of care.

3,083 screening referrals received April - December 2021

1,144 screening referrals received January - March 2022

The biggest challenge for PAS is getting doctors input and medical information.

#### LTCOP Updates

Saundra Hale, State LTC Ombudsman attended the beginning of this meeting but had to depart prior to her presentation, due to a work-related commitment. Ms. Hale will forward written updates to the commission.

#### 5. Old Business/New Business

##### Older Americans Month

May is Older Americans Month. Ms. Bailey and Furber provided commentary in Bay to Bay News to promote and encourage events to honor older Americans month in Delaware. The theme this year is "Age My Way".

## World Elder Abuse Awareness Day (WEAAD)

June 15, 2022 is WEAAD. Representatives Longhurst, Williams and Griffith and Senator Hansen will sponsor a concurrent resolution regarding elder abuse awareness in Delaware.

### Legislation and DNHRQAC's Position

Ms. Furber shared several upcoming bills that can impact long term care:

SB 415 - Dementia Training for medical professionals covered under Medical Procedures Act

HB 424 - Memory Care Laws and modifications to Assisted Living Regulations

HCR 79 - May as National Nurses Month

House Joint Resolution #7 - State to conduct pandemic after action reviews & continue COVID19 pandemic mitigation efforts

HB 371 - Marijuana Legalization/Decriminalizing

SB 1 - Paid Family Medical Leave

As there wasn't a quorum of members present today, Ms. Furber suggested commission members may want to think further about this topic and be prepared to discuss during the next commission meeting. Ms. Furber reminded commission members that they are certainly able to attend General Assembly committee or session hearings and express their own personal position on legislation. Finally, Ms. Furber mentioned commission member Kyle Hodges shared in the past that State Council for Disabilities (SCPD) has a legislative sub-committee. As Mr. Hodges could not attend today's meeting, this item will be discussed during July DNHRQAC Meeting so he can share what SCPD does within their advocacy agency. Ms. Furber believes this would help the commission develop a planned way to support, stay silent or express concerns regarding legislation efforts.

### DNHRQAC Sub-Committees

This item was deferred to next commission meeting due to lack of quorum. Ms. Furber mentioned members might want to also consider/share other sub-committee ideas, too, such as one to organize advocacy efforts, etc. Members were encouraged to bring forth ideas during the next commission meeting.

### Member Survey Monkey

A survey monkey was discussed during a previous commission meeting to check in with members to see whether general meeting day and time is still most convenient for members. Ms. Furber will be sending out a survey monkey soon.

### DNHRQAC Annual Report

Ms. Furber is placing finalizing touches on the FY 21 annual report draft and will be sharing with members shortly.

## 6. Public Comment

None provided during this meeting.

7. Next meeting commission meeting will be on Tuesday July 19, 2022 @ **location to be determined.**

8. Adjournment

The meeting was adjourned at 11:08 AM by Lisa Furber.

Attachments: DNHRQAC Meeting of May 17, 2022 agenda  
DNHRQAC Meeting of March 15, 2022 minutes draft